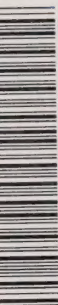


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Ontario. Royal commission inquiry into Labour  
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ROYAL COMMISSION  
INQUIRY INTO LABOUR DISPUTES

5630

HEARINGS HELD AT  
HAMILTON

VOL. NO.

19

DATE

April 11, 1967

*Official Reporters*

NETHERCUT & YOUNG LIMITED  
48 YORK STREET  
TORONTO 1, ONTARIO  
TELEPHONE 363-3111







Nethercut & Young

Toronto, Ontario

IN THE MATTER OF The Public  
Inquiries Act, R.S.O. 1960,  
Ch. 323

- and -

IN THE MATTER OF an Inquiry  
Into Labour Disputes

BEFORE:

The Honourable Ivan C. Rand,  
Commissioner, at the Wentworth  
County Building, Hamilton,  
Ontario, on Tuesday, April  
11th, 1967

E. Marshall Pollock

Counsel to the Commission

APPEARANCES:

Mr. George Mitchell,	)	Kitchener - Waterloo and
President	)	District Labour Council
Mr. Donald Bott,	)	
Secretary	)	

Mr. Herman Turkstra	)	Private individual
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Mr. F.A. Barley	)	Private individual
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Mr. Ralph Ellis	)	Local 354 Can Workers
	)	Union

Mr. Peter Curtis	)	Private individual
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Nethercut & Young

Toronto, Ontario

Hamilton, Ontario

Tuesday, April 11, 1967

---On commencing at 10:00 a.m.

MR. POLLOCK:     The Kitchener -  
Waterloo and District Labour Council of the  
Canadian Labour Council, Donald Bott, Secretary  
and Mr. George Mitchell, the President of the  
Kitchener - Waterloo and District Labour Council.

We had received earlier your  
letter of December 28th, which was a sort of  
outline, I suppose, of the material in this  
brief.

MR. BOTT:     Yes, and it is just  
a continuation.

MR. POLLOCK:     We read the  
December 28th submission and we have a couple  
of questions on it, but I notice that this is  
dated April the 5th.     We will leave the manner  
of presentation up to yourself.     I don't know  
if you want to present both of these briefs  
together.

MR. BOTT:     Well, I don't know  
how you operate this kind of sitting, so I will  
just start to read it and you can stop me any  
time you see fit - or we will stop ourselves -  
and make a comment.     Gentlemen:     Further to our  
previous submission to the present Inquiry we  
would reiterate     and perhaps elaborate on one of the





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1 subjects we first submitted.

2 I Injunctions

3 The Ontario Federation of  
4 Labour has, in their submission to the Inquiry,  
5 voiced a clear cut opinion on this subject,  
6 which we feel expresses the feelings of all  
7 the Labour Movement in the Province. However,  
8 we would like to make a few comments:

9 We are of the opinion that  
10 the use of injunctions to limit peaceful  
11 picketing is merely a camouflage action by  
12 a Company to allow them to hire strikebreakers.  
13 No responsible governmental branch or  
14 department should be a party to this kind  
15 of practice which frequently causes enmity  
16 between fellow workers and often between  
17 neighbours.

18 I don't know if you can recall  
19 it to your memory, but when we submitted a  
20 report of a natural strike at the plastic  
21 plants, there was a case there where this  
22 sort of thing happened and I don't think those  
23 two brothers have spoken to each other yet.  
24 It was all through this - these two fellows  
25 were quite close up until this time.

26 The injunction has the effect  
27 of changing the equal balance of power in  
28 the labour dispute to a point where the  
29 Company has all the power. When government  
30 allows the injunction in a labour dispute





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1 they are saying in effect - "we are not  
2 interested in seeing justice done here", and  
3 in fact give the impression that the government  
4 is more interested in helping corporate  
5 entities make more profits than they are in the  
6 well being and welfare of the people who  
7 need their assistance most.

8                   These people are also interested  
9 in their own monetary position and they  
10 wouldn't be on strike unless they were trying  
11 to improve it and the injunction makes the  
12 company open to hire strikebreakers and thus  
13 make their own monetary position better and  
14 it tends to impress the same idea on the part  
15 of the worker.

16                   Injunctions make the balance  
17 of forces unequal in the union - Company  
18 relationship, and contribute greatly to  
19 labour unrest and strike, in that they  
20 create a harassment which erodes the  
21 patience of the strikers, who are then likely  
22 to be prone to react unlawfully to a  
23 picket line disturbance.

24                   We feel that the injunction  
25 does this.

26                   THE COMMISSIONER: Well, doesn't  
27 the fact of strikebreaking do that, whether  
28 you have an injunction or not?

29                   MR. BOTT: It is probably  
30 secondary to the injunction itself.





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1 THE COMMISSIONER: But certainly,  
2 at times it gives rise to the injunction.  
3 Quarrelling results from the employment of  
4 strikebreakers. That is where men become  
5 infuriated, as you say here and they react  
6 unlawfully.

7 MR. BOTT: But don't you feel  
8 that if the picketers were employed, or occupied  
9 in their picket line duties, say there are four  
10 gates and they were allowed to have eight  
11 picketers at a gate, that would occupy half  
12 of the force of the picketers and if they  
13 limit it, by injunction, to two picketers at  
14 a gate, there are 24 people who are not occupied  
15 and are prone to suggestions by the company  
16 and others that they cross the picket line and  
17 go back to work?

18 THE COMMISSIONER: But a take  
19 a situation before you have an injunction - you  
20 have a strike. Now, suppose on the second or  
21 third day you have an influx of men who are  
22 waiting to take the place of the strikers.  
23 That, itself, is an infuriating fact in reality,  
24 isn't it?

25 MR. BOTT: Yes.

26 THE COMMISSIONER: Therefore,  
27 that has given rise to the application for  
28 an injunction.

29 MR. BOTT: Well, I don't  
30 recall any myself, but the one that comes most





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1 readily to my mind is where an injunction is  
2 already in effect and the people that are  
3 supposed to be picketing are - for different  
4 reasons - going through the picket line.

5 THE COMMISSIONER: Well, the  
6 injunction, in effect makes it easier for  
7 the strikebreakers to go into the plant and  
8 come out, but at the beginning, you can see  
9 the real difficulty. It is standing out  
10 and seeing somebody, in effect, occupying  
11 your chair or your bench at work.

12 MR. BOTT: That is the  
13 difficulty all right and it depends on how  
14 they get in there. An injunction makes it  
15 a lot easier for them.

16 THE COMMISSIONER: It may, in  
17 that sense, yes.

18 MR. POLLOCK: Well, the  
19 injunction would then prevent them from  
20 being physically barred and certainly wouldn't  
21 prevent them from having the idea that there  
22 was a strike at the plant communicated to  
23 them and, in a sense, to give them an opportunity,  
24 if they are going to make a decision, whether  
25 to respect the picket line or to cross it.  
26 They would have the information and they might  
27 not be persuaded by the information that they  
28 received. They may be motivated more by  
29 economic reasons, to go into the plant, than  
30 otherwise and the only way you would keep these







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1 people out of the plant would be either to  
2 physically stop them by standing in front  
3 of them or convey such an impression to them  
4 that they would be afraid to cross because  
5 they have heard of other situations and rumours,  
6 maybe, and maybe some of them found that  
7 where people had crossed and got into some  
8 unfortunate scrapes.

9 MR. MITCHELL: May I interject  
10 here, sir? I think in this regard the fact  
11 that there are only two people on a picket  
12 line, for example, and that is to use the  
13 figure 2, this might not convey the message  
14 to people who are potential strikebreakers  
15 that there are actually 300 people or 200  
16 people supporting the strike, whereas if  
17 you have 100 people in the picket line and  
18 someone approached with the thought in mind  
19 of the possibility of going back to work,  
20 acting as a strikebreaker, and he saw that  
21 things must be pretty bad in this plant because  
22 there are 150 people here who are allowed to  
23 picket the place and this is a message from  
24 150 people instead of a message from, perhaps  
25 when he approaches a picket line, with only  
26 two people standing out there. Normally,  
27 most people would be fairly well informed  
28 that there are 500 people in that plant on  
29 strike and that a strike vote was taken  
30 and carried by a vote of, say, 450 to 50.





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1 But there are a lot of people who are not  
2 that well informed and then, if they see a  
3 picket line of two people at each gate, or  
4 three people at each gate, they wouldn't be  
5 aware of the situation, and then we think  
6 that the total number of people who are  
7 protesting working conditions and so on  
8 in the plant, should be allowed to make  
9 this known to the other people.

10 MR. POLLOCK: I suppose you  
11 could communicate the simple fact of numbers  
12 if they would read your signs saying that  
13 there were 500 people on strike. I don't  
14 know if it would have as much persuasive  
15 effect on people, but it would certainly  
16 eliminate the fears that they would have.

17 But take for example the  
18 situation in Peterborough where, for the  
19 first three days of the strike there  
20 was no injunction but the employer hired  
21 strikebreakers and I think by the union's  
22 evidence, he phoned up all the various  
23 people in the community that had made  
24 applications to him for jobs on earlier  
25 occasions and had said "We are on strike,  
26 would you like to come and work here" and  
27 he got all kinds of people to apply. So,  
28 during the first three days, without the  
29 injunction, the people came to work. They  
30 had 20, 30 or 40 pickets at times, but these





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1 people were prepared to work and the only thing  
2 they were concerned about was their physical  
3 safety. They had to be transported in and  
4 out of the plant because they said that they  
5 were afraid for their safety.

6 Then the injunction came along  
7 as activities got a little bit hotter, but  
8 on the evidence of the union, considerable  
9 numbers of strikebreakers had been engaged  
10 right from the start without any protective  
11 umbrella of the injunction.

12 MR. BOTT: How many strike-  
13 breakers were hired in those three days?

14 MR. POLLOCK: Sufficient to  
15 continue the operation of the plant, and then  
16 periodically through the whole strike more  
17 people went to work there. Some people  
18 came and quit and it was a limited skill  
19 occupation, of course, and that is the problem  
20 that some occupations ~~face~~ - the fact that  
21 their employees are easily replaceable.

22 MR. BOTT: In conjunction with  
23 non-union members also working in the plant,  
24 supervisory personnel, et cetera.

25 MR. POLLOCK: Well, I think  
26 the operation is small enough that the  
27 supervisory personnel, I think, worked all  
28 the time, even though there was some reluctance  
29 on the part of the union to have supervisors  
30 or foremen work, but there is no doubt about it,





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1 that the supervisory personnel worked and  
2 other people were brought in from the outside  
3 to work there and some of the employees in  
4 the unit didn't go out on strike.

5 But the only point I make is  
6 that your biggest problem is to convince  
7 strikebreakers not to work. It is not a  
8 question of communicating the idea to them  
9 that there is a strike, it is convincing them  
10 that your position - the union's position -  
11 is a more valuable position to society and  
12 to them than their own economic position,  
13 their own advantage ~~than~~ they would get from  
14 working in the plant. And if the only  
15 acceptable method in our society is rational  
16 approach, that is the presentation of arguments  
17 on two sides so that you can make a choice,  
18 then the physical aspects of deterring people  
19 from coming in really don't have any place  
20 in our society, just as the physical aspects  
21 of deterring a union organization was  
22 prevalent in the 1930's and no longer has any  
23 place in our society. So that is really  
24 the problem and I am sure you appreciate that.  
25 We would like to have some comments on those  
26 factors from both of you.

27 MR. BOTT: Well, I believe  
28 that the physical stopping that you are talking  
29 about is projected more than anything else,  
30 it is not that prevalent. I believe you could



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1 ring a place with pickets and not necessarily  
2 have violence at any time.

3 MR. POLLOCK: It may not be  
4 violence. You may have to cause the violence;  
5 if you are driving your car and somebody is  
6 standing in front of your car and won't move  
7 there is the problem of what will you do. He  
8 is not moving and you want to get in the plant  
9 and you can sit there all day until you start  
10 edging your car forward then usually he will  
11 get out of the way.

12 MR. BOTT: Well, I am talking  
13 about the idea that there may be some physical  
14 violence on the part of a strikebreaker; that  
15 will prevent him in the first place, and when  
16 he says he is afraid to go through the line  
17 and the injunction is granted, for instance,  
18 I wonder how much of that is a moral ease to  
19 his conscience. If there are 50 people in  
20 the picket line then he is going to stand back  
21 but if there are only two there, then he will  
22 say, "Well, these two people can't think too  
23 badly of me and even if they think the worst,  
24 there are only two of them and I will go to  
25 work".

26 THE COMMISSIONER: Well, I  
27 think you underestimate the scope of his  
28 thinking. He knows exactly what he is  
29 entering into; he wants work and he is  
30 indifferent to this question of loyalty.







1 MR. BOTT: I don't know; perhaps  
2 you are right.

3 MR. POLLOCK: You are suggesting  
4 that the reprobation of the community is going  
5 to have some affect on this man by going to  
6 work.

7 MR. BOTT: Yes.

8 MR. POLLOCK: Well, it doesn't  
9 take long before the community - if it is a  
10 relatively small one, and even in a larger  
11 community of 50 thousand people where there is  
12 one industry or two industries - until  
13 everybody in the community knows who the scabs  
14 are.

15 MR. BOTT: Well, that is true  
16 but if it is carried on for four or five or  
17 six days before this widespread publicity is  
18 achieved, then what is the difference? The  
19 greatest part of the people will tone it down  
20 anyway, once the practice has been established,  
21 and also, prevention is better than the cure.

22 II Compulsory Arbitration

23 During the month of June 1966,  
24 Mr. Claude Jodoin, President of the Canadian  
25 Labour Congress, had this to say on compulsory  
26 arbitration:

27 "There is no evidence available  
28 which would indicate that  
29 compulsory arbitration or  
30 labour courts had resulted







1 in a lessening of industrial  
2 conflict or had resolved any  
3 labour-management dispute.  
4 On the contrary, the experience  
5 of Labour Courts in Australia  
6 and Britain has been such as  
7 to suggest that the free  
8 collective bargaining process  
9 is much more likely to produce  
10 a meaningful settlement of  
11 such disputes."

12 and

13 "The amount of time lost in  
14 Australia, for example, due  
15 to labour disputes increased  
16 following establishment of  
17 Labour Courts."

18 THE COMMISSIONER: Why do you  
19 think the labour courts do that?

20 MR. BOTT: I don't know.

21 THE COMMISSIONER: They don't  
22 exercise compulsory arbitration. They fix  
23 minimum rates.

24 MR. BOTT: If you have a  
25 grievance that goes before an arbitrator they  
26 don't have a collective agreement?

27 MR. POLLOCK: They don't have  
28 collective agreements as we know them. They  
29 have a rate that is fixed by the arbitration  
30 tribunal and that governs the wages and working



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1 conditions of the employee.

2 MR. BOTT: And is this  
3 individual plants - industry?

4 MR. POLLOCK: They are  
5 individual trades, really, that involve the  
6 industrial type of activity like machinist  
7 and these would be covered by a particular  
8 ward. The metal trade is a ward and boiler  
9 makers would be covered by another ward and  
10 carpenters would be covered by another ward.

11 MR. BOTT: How about the  
12 semi-skilled.

13 MR. POLLOCK: They are all  
14 covered.

15 THE COMMISSIONER: You see,  
16 they have two steps of minimum rates. There  
17 is the margin skill and they take it to the  
18 degree of skill required. And those are all  
19 minimum. The industry cannot pay less than  
20 that. Above that, they are open for the  
21 ordinary collective bargaining.

22 MR. POLLOCK: With the exception  
23 that, in most circumstances they are not able  
24 to resort to strike.

25 THE COMMISSIONER: In many  
26 cases, strike is prohibited by statute but  
27 as, in the case here of illegal strikes, there  
28 are strikes and what they endeavour to do is  
29 what we endeavour to do, piece it out until  
30 finally it is resolved without resort to penal







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1 provisions.

2 MR. BOTT: Then this labour  
3 court has the last say, legally?

4 MR. POLLOCK: Well, I don't  
5 know what you mean by the last say legally.  
6 I don't know whether anybody ever has the  
7 last say.

8 MR. BOTT: Well, if there is  
9 a wage dispute and they take it to the labour  
10 court and the company or the union present  
11 accept their recommendation, then if they  
12 go on strike, it is illegal.

13 MR. POLLOCK: Yes.

14 MR. BOTT: And this is in all  
15 segments of the industrial economy?

16 MR. POLLOCK: Well, it varies  
17 and there are six jurisdictions but, generally,  
18 you would say that the resort to strike is  
19 unlawful - either contrary to law or can be  
20 as provided in the wards. But I don't want  
21 to get into a discussion on the Australian  
22 situation today. I think the Commissioner is  
23 pointing out that the commentary made by Mr.  
24 Jodoin is, again, an extract of what he said  
25 and we really don't know what he said and we  
26 certainly don't know on what basis he makes  
27 that statement, but we are not - from my  
28 observation - satisfied that that carries the  
29 whole picture.

30 MR. BOTT: He made the statement





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1 to the Minister of Labour in the Federal  
2 Government on compulsory arbitration.

3 MR. MITCHELL: Taking what  
4 Mr. Jodoin has said here, it is my interpretation  
5 - and again, I haven't read Mr. Jodoin's whole  
6 submission - but I interpret this to mean the  
7 fact that it is illegal to go on strike hasn't  
8 stopped strikes.

9 THE COMMISSIONER: Well, that  
10 isn't what he said, but there is no doubt  
11 about that. The fundamental idea is that  
12 a human being will not be forced to work; that  
13 is all; he is not a slave and that is accepted;  
14 there is no doubt about that. But it is just  
15 like breaking a contract. You may be liable  
16 to damages if you make a contract and break  
17 it. You have to realize that. But, so far  
18 as compelling a man to work, I don't know of  
19 any jurisdiction in the western world that  
20 says "If you don't go to work, you will go  
21 to jail".

22 MR. BOTT: The New Jersey Governor's  
23 Committee on Legislation Relating to Public  
24 Utilities Labour Disputes made a clear-cut  
25 recommendation against compulsory arbitration  
26 for the following reasons:

- 27 1. The strike, or threat of a strike, is  
28 an essential part of negotiations.  
29 Without it there is no approach to  
30 equality in bargaining power of the







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1 kind which our law seeks.

2 We seek bargaining power here.

3 MR. POLLOCK: Now, I don't  
4 know about that, but I think our law brings  
5 the parties together by the certification  
6 process and says "Now you must bargain". But  
7 if one party is economically stronger than  
8 the other party, it doesn't attempt to bolster  
9 up any of the two parties - at least the  
10 way it operates today.

11 MR. BOTT: Well let us put  
12 it the other way. The Labour Relations Act  
13 doesn't attempt to reduce one side of the  
14 bargaining power.

15 MR. POLLOCK: No, I think they  
16 take it the way they find it.

17 MR. BOTT: Well, this is the  
18 point we are trying to make here.

19 MR. POLLOCK: It is a question  
20 of what you mean by the bargaining power. If  
21 it restricts the union activity to operate  
22 within the ordinary law, then the ordinary  
23 law restricts that type of bargaining power,  
24 but I don't think that is what you were talking  
25 about.

26 MR. BOTT: No, we are referring  
27 here to the compulsory arbitration - that it  
28 would reduce the equality of one side in  
29 compulsory arbitration.

30 MR. POLLOCK: It may reduce the



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1 ultimate strength of a strong employer to  
2 resist the demands of the union and  
3 it may reduce the demands of a union, if they  
4 are unacceptable or unreasonable to the  
5 compulsory arbitration board.

6 THE COMMISSIONER: Nobody is  
7 suggesting that compulsory arbitration over  
8 the whole field of labour relations, that has  
9 always been confined to what is called  
10 essential industry, where the public interest  
11 is such that it transcends the private interests,  
12 that is the only justification that has been  
13 urged.

14 MR. BOTT:

15 2. The denial of the right to strike would  
16 remove the voluntary factor from collective  
17 bargaining and labour agreements. Thus  
18 an agreement would become next to useless  
19 because it should be something voluntary  
20 made by the interested parties. If it  
21 falls under government law it becomes  
22 a law or regulation, and therefore is  
23 no longer an agreement.

24 MR. POLLOCK: What is the  
25 significance of this?

26 MR. BOTT: If compulsory  
27 arbitration forces an agreement upon people,  
28 then it really isn't an agreement in the  
29 strict sense of the word, is it?

30 MR. POLLOCK: Well, I agree with





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1 that, but what is the merit to be held out  
2 to the fact that it is an agreement? You  
3 certainly have an opportunity to reach an  
4 agreement between yourselves and if you can't  
5 reach an agreement, then the economic weapons  
6 in one case come into operation and in the  
7 other case, arbitration or the third party.

8 MR. BOTT: Well, if the third  
9 party is sitting there in the wings and the  
10 other two parties both know it, then from my  
11 viewpoint anyway, the company is just going to  
12 sit there and say "We will just wait and see  
13 what the compulsory arbitration has to say  
14 about it".

15 MR. POLLOCK: Well, I suppose  
16 if you are sitting in a company position, you  
17 are taking a lot for granted and you are  
18 assuming that the tribunal - the compulsory  
19 arbitration tribunal - is going to decide  
20 in their favour. If you were sitting on the  
21 compulsory arbitration tribunal, I don't think  
22 the company would have that view, would they?

23 MR. BOTT: I would hope not.

24 MR. POLLOCK: Well, it is a  
25 question of staffing with adequate people.

26 THE COMMISSIONER: If you don't  
27 mind my saying so, I think you were in the army,  
28 how much arbitration was given to the members  
29 of the army to fix their raises?

30 MR. BOTT: There was no





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1 collective bargaining.

2 THE COMMISSIONER: No, and you  
3 took what the law gave you and yet you were  
4 told to go out and face, very likely, death.

5 MR. BOTT: I wasn't out through  
6 my own choosing, either.

7 THE COMMISSIONER: Well, no  
8 you weren't, but that doesn't make any  
9 difference. Now this is perhaps unnecessary  
10 to say that the army might be able to discuss  
11 their rates and what is allowed, but at the  
12 present time and up to the future time, I think,  
13 you would have to receive what the parliament  
14 of the majority of people decide. I am  
15 showing you that if you look at this labour  
16 question, in the light of the whole social  
17 condition, you will see what we have, in  
18 that normal fear of the word "compulsory".  
19 We are acting under compulsion all our lives,  
20 the compulsion of law.

21 MR. MITCHELL: I think the  
22 compulsion reaction, sir, is another degree.  
23 For example, you mentioned war. And the whole  
24 of society can justify action against  
25 individuals or segments of society by reason  
26 of being for the good of all. This should  
27 be somewhat to a lesser degree where we are  
28 not in a state of war, a more and more democratic  
29 procedure can be exercised.

30 THE COMMISSIONER: Well, that





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1 is exactly the line we follow except that  
2 we wont allow any group - at least I think  
3 they shouldn't allow any small minority group  
4 - to strangle a community which enables  
5 them to do the striking. You've got to  
6 maintain your democratic organization,  
7 your political organization, or you will  
8 reach chaos.

9 MR. MITCHELL: Well, we don't  
10 reach chaos until our democratic procedures  
11 have broken down.

12 THE COMMISSIONER: Take the  
13 police force - would you give them the right  
14 to strike? Now that situation actually  
15 occurred in Boston in 1907 or 1908 and  
16 inside of 48 hours they had to form a  
17 civil guard to protect life and property.

18 MR. MITCHELL: Yes, but this  
19 was after a democratic procedure had broken  
20 down, the procedure of collective bargaining  
21 had broken down.

22 THE COMMISSIONER: Well, if  
23 you need to go to any kind of further action ----

24 MR. MITCHELL: I think what  
25 we are after is something that we can bolster  
26 and made collective bargaining more successful.

27 THE COMMISSIONER: What do you  
28 suggest?

29 MR. MITCHELL: Well, I think  
30 if the law or the public is going to intervene



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1 they should intervene in a method that will  
2 contribute to the collective bargaining.

3 THE COMMISSIONER: That is  
4 a first-rate step of purpose, but what do you  
5 suggest as a means to bring that about? If  
6 you look at it from the beginning, you will  
7 see this; that if you have labour solidarity  
8 in the plant and if you are not allowed to  
9 employ strikebreakers, your strike, if you  
10 have loyalty, will close the plant, won't it?  
11 Are you seeking anything more as a basis of  
12 coercion?

13 MR. MITCHELL: On the other  
14 hand, as it now stands, the strike and the  
15 ability to hire strikebreakers and make it  
16 easier for strikebreakers ----

17 THE COMMISSIONER: Well that,  
18 I am suggesting to you, as I did to Mr. Bott,  
19 that is the item that is dangerous to you. It  
20 may destroy your strike.

21 MR. MITCHELL: Yes, but on the  
22 other hand if the employer is allowed to hire  
23 strikebreakers - and I know several people who  
24 have lost their jobs through a strike - they  
25 are destroying their economics and the right  
26 to work - it was destroyed the same as management's  
27 rights to maintain an operation.

28 THE COMMISSIONER: That is what  
29 I am trying to point out to you; that your  
30 enemy is the strikebreaker, to put it in that







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1 form. It wasn't the injunction, it wasn't the  
2 absence of any other means of collective  
3 bargaining, it was the fact that to prevent  
4 your strike from being effective, if you have  
5 internal loyalty in that unit.

6 MR. MITCHELL: Well, it seems  
7 to me that the strike should be the ultimate  
8 in weapon in collective bargaining and this  
9 is where it becomes the battle of economics  
10 between management and the worker.

11 THE COMMISSIONER: I agree with  
12 that.

13 MR. MITCHELL: And with the  
14 injunction ----

15 THE COMMISSIONER: Now, never  
16 mind that. We've got past the injunction and  
17 we are talking about arbitration. All I am  
18 suggesting is that your enemy there is not  
19 arbitration, but it is the strikebreaker.

20 MR. MITCHELL: Then at this  
21 point we have to have an atmosphere of neutrality  
22 when you get to an arbitrator. The arbitrator  
23 has got to be neutral and I don't think this is  
24 so in our present society and our present  
25 political atmosphere.

26 THE COMMISSIONER: You think  
27 it is impossible to get men of fair, objective  
28 judgment?

29 MR. MITCHELL: No, I don't think  
30 it is impossible, sir, I think you could possibly





1 point, yourself, to a dozen people off the top  
2 of your head that would be fair in judgment  
3 but there aren't nearly enough of them. I  
4 wouldn't say for a moment - and in fact I know  
5 of some people who have made what I consider  
6 to be fair and objective decisions in these  
7 kinds of cases, but I don't think there are  
8 nearly enough of them and I don't think there  
9 are enough of them appointed.

10 For example, and of course I  
11 guess it could work both ways, but we have our  
12 nominees and they have to agree to a third  
13 person. The management nominee can just  
14 refuse to agree to anyone until the Minister  
15 of Labour appoints one and I don't think we  
16 are liable to get a fair appointment from a  
17 Minister of Labour - or not nearly as liable  
18 to as if two people could sit down and agree  
19 on a third party, and maybe, in most cases,  
20 they do agree. But the union nominee has to  
21 agree under the plant of fear and he's better  
22 off to live with the devil he doesn't know  
23 than the devil he knows.

24 THE COMMISSIONER: Well, it is  
25 interesting, but when railway refused the  
26 adjustment that was reached by the conciliator  
27 and it is going - or accepting - the resort  
28 of compulsory arbitration.

29 MR. MITCHELL: I am sorry, sir,  
30 but I am not as familiar with these terms but I





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1 am a member of one of the railway unions. I  
2 don't work in the union, but I do get their  
3 magazine and I don't study this as closely  
4 should  
5 as I have, but as I recall it - and I stand  
6 to be corrected here - the conciliator's  
7 settlement didn't agree with the Freedman  
8 Report or some sections of it.

8 THE COMMISSIONER: Well, I  
9 don't think it was the Freedman. That question  
10 wasn't put before Mr. Goldenberg, was it?

11 MR. MITCHELL: Well, I think ---

12 THE COMMISSIONER: Because  
13 I think most of the union accepted what had  
14 been reached during conciliation procedures  
15 and there were two or three which didn't.

16 MR. MITCHELL: Well, most of  
17 the unions did.

18 THE COMMISSIONER: Most of  
19 them did, yes, but these others preferred  
20 arbitration.

21 MR. MITCHELL: Well, as I  
22 say, I thought - or was of the opinion - that  
23 some of the agreements reached in the  
24 conciliation at that stage didn't agree with  
25 the Freedman report. The Freedman report  
26 was relatively favourable to some of the  
27 things that the railway unions had wanted.

28 THE COMMISSIONER: Now, I  
29 doubt if that question was before Mr. Goldenberg,  
30 because if it had been, it surely would have



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1 affected some of the unions which accepted the  
2 conciliation results.

3 MR. MITCHELL: Well, I stand  
4 to be corrected, but I think this was the  
5 principle that some of the railway unions  
6 rejected the conciliator's report - they  
7 rejected, felt that they disagreed with the  
8 Freidman Report and basically, they  
9 disagreed with the Freedman Report, particularly  
10 the part where they would be allowed to  
11 negotiate changes in work schedule and automation  
12 and so on. Now this is my impression, sir,  
13 but I could be corrected.

14 THE COMMISSIONER: Well, we  
15 haven't received Mr. Goldenberg's Report.

16 MR. MITCHELL: Well, I saw  
17 a resume of the settlement of the Brotherhood  
18 of Railway Workers. The C.B.R.T. and G.W.  
19 is recommending to its members at the present  
20 time and a vote is being taken but I haven't  
21 had time to study this closely to know exactly  
22 what is in it.

23 MR. POLLOCK: Well, let me  
24 return for a moment to what Mr. Bott is saying  
25 about an agreement. I think what you are  
26 saying - and you will correct me if I am taking  
27 too much liberty with what I think you are  
28 saying - that an agreement arrived at between  
29 two parties is better than something that is  
30 imposed on from the outside, because the two





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1 parties feel that it is our agreement and we  
2 have to make it work and they feel some  
3 responsibility for making it work. Is that  
4 really what you are saying?

5 MR. BOTT: That is right.

6 MR. POLLOCK: Well, I will  
7 agree with that and I think everybody will,  
8 so far as it relates to an amicable arrangement  
9 between the two parties; if they come to  
10 conclude a collective agreement in the ordinary  
11 course of negotiations, then I think what  
12 you say is correct. But I don't think there  
13 is very much commitment to making this agreement  
14 work if either of the parties had been battered  
15 into that position either by a strike or a  
16 lock-out or an economic weapon by the other  
17 side. It is an agreement all right and he  
18 is forced into that agreement, but it is an  
19 unhappy marriage and I don't think that it  
20 would make that much difference to that party  
21 whether he was forced into that agreement by  
22 an economic weapon or by some other method.  
23 It is not his agreement any more, it is forced  
24 upon him by some economic pressure, but  
25 perhaps it was enforced upon him, if we  
26 could use that word for a moment, by a  
27 tribunal that would consider all the points  
28 and would be impartial and would be able to  
29 look at this thing from a third point of view,  
30 and appreciate all the different arguments.





1 You may not agree with them, but appreciate  
2 them. Then maybe this reluctance to have  
3 the agreement put upon him would be slightly  
4 overcome. What do you say about that?

5 MR. BOTT: I don't know, I  
6 think it would be in the same category,  
7 whether it would be economic or by someone  
8 who says "You are going to put this in your  
9 agreement and abide by it".

10 MR. POLLOCK: Well, it would  
11 all depend on whether he came out on your side  
12 or the other man's side, because that is  
13 really what the basic question is. If you  
14 agree with me I think you are a good judge  
15 and if you disagree I think you are bad.  
16 Is that it?

17 MR. BOTT: It is possible,  
18 but this is the point I was trying to make.  
19 If there is someone who says this is what you  
20 are going to have in your agreement and abide  
21 by it, it is no longer a voluntary collective  
22 agreement. It would be the same economically,  
23 I will grant you that.

24 THE COMMISSIONER: Let me  
25 mention an analogy to that. Until at least  
26 the 15th century, any person charged with a  
27 crime in England, would accept a jury and  
28 he didn't trust the jury, and didn't trust  
29 his neighbour, what would you say today, if  
30 you were either a judge or a jury or other





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1 means of settlements such as a battle, and  
2 running through and taking the ordeal and  
3 letting nature or letting God or someone  
4 outside human form decide upon your innocence  
5 of guilt. That is exactly what happened  
6 only 400 years ago and you are meaning the  
7 same thing here. You don't trust the  
8 objective judgments and you don't accept  
9 the possibility of it.

10 MR. POLLOCK: That attitude  
11 is certainly not limited to labour alone. It  
12 cuts both ways so don't feel that we are  
13 directing these questions by saying "you"  
14 as to labour. It is both labour and management.  
15 What do you think about that?

16 MR. BOTT: Well, in the first  
17 place, I am glad we have progressed from that  
18 situation.

19 THE COMMISSIONER: Yes, certainly,  
20 and the object is to go even further.

21 MR. BOTT: In the present  
22 educational standards of our society, I would  
23 be inclined to place my faith in the hands of  
24 a jury rather than in the hands of one person.

25 THE COMMISSIONER: That is  
26 fine but you do it and it is the judgment  
27 of other people. You do have confidence in  
28 your neighbour, then, and I agree also that  
29 there are, in the present method of arbitration,  
30 we have one from each side and then somebody



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1 selected, really in many ways, puts the  
2 judgment in the hand or mind of one man. You  
3 can easily change that by having a different  
4 sort of group, having men who are indifferent  
5 to both sides, you might say, but who have  
6 the capacity to see and feel both sides  
7 and who have the sense of the social context  
8 in which this particular issue may arise.  
9 We are all bound, you know, by the security  
10 that our own society gives us and we must  
11 keep in mind the institutions of that society  
12 in order to give decent protection to the mass  
13 of people.

14 All I am suggesting is, don't  
15 be afraid of words. Arbitration is like  
16 a red rag sometimes to some people, but that  
17 is absurd because we do have men in whom  
18 you can place confidence.

19 MR. MITCHELL: I think the red  
20 rag aspect is probably due to some bitter  
21 experiences in the past and probably due to  
22 incompetent people.

23 THE COMMISSIONER: It may be  
24 but it is only a question of not too great  
25 a time when the unsoundness of that judgment  
26 may be exposed. We learn by experience and  
27 it is the experience that we reveal whether  
28 it is a sound judgment or a defective judgment.

29 MR. POLLOCK: Mr. Mitchell  
30 suggested earlier that he felt the ultimate





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1 in collective bargaining - the ultimate is  
2 the strike. What does the strike mean?

3 MR. MITCHELL: Well, to continue  
4 there, I think the ultimate should be the  
5 strike. It has come to the fact that  
6 the ultimate is the injunction in my way  
7 of thinking.

8 MR. POLLOCK: But let us stop  
9 here at that point and I want to find out  
10 what you mean by strike? What is included  
11 in that term?

12 MR. MITCHELL: The strike as  
13 we know it is where people walk out of the  
14 plant or the company closes the plant down  
15 and it becomes a battle of economics.

16 MR. POLLOCK: Well, there  
17 is a withdrawal of labour - that is the  
18 traditional element of strike. In some  
19 plants and in some industries the withdrawal  
20 of labour is sufficient to close the plant.  
21 So that is sufficient.

22 MR. MITCHELL: That is right.

23 MR. POLLOCK: That is what  
24 you mean by your economic weapon. Now if  
25 your withdrawal of labour isn't sufficient  
26 to close the plant, then what do you do?  
27 If the strike is simply taken by itself and  
28 the withdrawal of labour isn't sufficient  
29 to close the plant, what other techniques can  
30 you resort to to bolster it up?



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1 MR. MITCHELL: Do you mean  
2 if there isn't a strike or there is a strike?

3 MR. POLLOCK: No, if there  
4 is a strike. You've got a plant of 100  
5 people and 100 people were pulled off the  
6 job and go off on strike and they go home  
7 and sit down in their home and the plant,  
8 if it needs them and can't get anybody else  
9 and can't operate without them, it closes  
10 down. But in some cases those 100 employees  
11 can be replaced in low-skill occupations  
12 or in areas of where there is lots of unemploy-  
13 ment and lots of people want to take the job  
14 or whether remuneration is relatively  
15 attractive to the rest of the people in the  
16 working community, they will go and work there.  
17 So that the withdrawal of your labour, which  
18 is the original weapon, is no longer a weapon.  
19 Then you have to start doing something else.  
20 You have to start keeping people out and I  
21 suppose you say you keep them out by persuasion  
22 and if they aren't persuaded, then you keep  
23 them out by physically blocking the access.  
24 If they can get through the lines, then you  
25 will go and visit them in their homes.

26 These are all projected ideas  
27 of what happens. Now, those are well beyond  
28 the original conception of what the strike  
29 is. There is no question today that people  
30 are not going to be free to strike. You can





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1 withdraw your labour, but it is a question of  
2 how far you can go in these other areas if  
3 your strike fails, if your economic position  
4 is weak.

5 THE COMMISSIONER: You have a  
6 good illustration of how insufficient a strike  
7 is. I don't want to speak to this more than  
8 is necessary, but in 1945 the Ford strike  
9 lasted for 99 days and both sides were sick  
10 of it and both sides agreed not on arbitration  
11 at all, but on the decision of a single  
12 referee or umpire or any name you might give  
13 it. So strikes cannot necessarily end anything.

14 MR. MITCHELL: Well, I think  
15 perhaps, often the conciliation officer  
16 bolsters the problem of the idea that it is  
17 his job to make a report and he should be  
18 approaching the problem with the idea that  
19 it is his job to get an agreement.

20 THE COMMISSIONER: Well, I  
21 think you will find the conciliators who are  
22 competent are there to bring about a settlement.

23 MR. MITCHELL: This is what  
24 I referred to a few minutes ago. I don't  
25 think there are enough competent conciliators.

26 THE COMMISSIONER: The object  
27 of your criticism should be a broader mother  
28 nature.

29 MR. MITCHELL: Well, with all  
30 the people we have available for conciliation



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1 at the moment, as conciliators both the good  
2 and the bad, we still have backlog, we still  
3 have problems in getting these things situated.  
4 Now if we take out all the bad ones it is  
5 going to be a lot worse.

6 MR. POLLOCK: Well, that is  
7 a question of finding the people, getting  
8 the people either trained for the job or a  
9 volunteer for the job.

10 MR. MITCHELL: Well, all of  
11 these things - the conciliator's role - and  
12 if they are going to talk about an arbitrator's  
13 role, or the third party's role and the  
14 public's role and all of these roles, they  
15 should have in mind the ultimate goal of  
16 successful collective bargaining without  
17 a third party, where the two parties can sit  
18 down and obviously we are not able to do this  
19 at the moment but where two parties can sit  
20 down in mutual respect instead of mutual  
21 suspicion.

22 MR. POLLOCK: Well over half  
23 of the agreements in this province are concluded  
24 by negotiation of the parties without the  
25 intervention of anybody else.

26 MR. MITCHELL: I would say  
27 well over 75 per cent.

28 MR. POLLOCK: Perhaps it is  
29 that, but I am being conservative here. But  
30 those are arrived at in that manner. Half of



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1 the remaining group are settled at the first  
2 stage of conciliation and then slowly all the  
3 way down the line.

4 There is a considerable number  
5 of people who can sit down and bargain, but  
6 it is a question that some issues are very  
7 difficult and some people take difficult  
8 positions.

9 MR. MITCHELL: But even  
10 these that are settled in normal negotiations,  
11 I question very much if they are settled  
12 with very much degree of mutual respect. I  
13 think that each sides sits there and sizes  
14 the other side up and says "Well, I am going  
15 to have to concede this. I don't want that  
16 but I am going to have to do it".

17 MR. POLLOCK: Isn't that the  
18 position you have built with a strike at the  
19 end of it? Isn't that the system that  
20 exists today? And this is a question of  
21 looking at your cards and have the other  
22 fellow look at his and trying to guess from  
23 the expression on his face how strong he is?

24 MR. MITCHELL: That is right,  
25 yes, and we have to also sit there and look  
26 at the cloud of injunction.

27 MR. POLLOCK: Well, I think  
28 if all you have to look at is the cloud of  
29 injunction, it might not be such a bad  
30 situation.







1 THE COMMISSIONER: Do you  
2 think you would you have to be a good poker  
3 player to be a better conciliator than the  
4 man who didn't like cards? He can tell  
5 from the appearance of a person pretty well  
6 what cards he has.

7 MR. MITCHELL: No, I think  
8 a conciliator should want to see all of  
9 everybody's cards.

10 THE COMMISSIONER: Well I  
11 think that sometimes you can get that exposure.

12 MR. MITCHELL: I've had  
13 arbitrators tell me that they have a better  
14 offer from management than the union was  
15 willing to accept, but he couldn't tell  
16 them. So he was being impartial there.

17 THE COMMISSIONER: Well, there  
18 is no perfect judgment conceivable in this  
19 life. We all have to take a second best  
20 with rough justice. We are very lucky if  
21 we get away with that.

22 MR. BOTT:

23 3. We have not been able to devise a method  
24 of establishing wage rates or other  
25 conditions of employment which is  
26 more efficient than free collective  
27 bargaining.

28 The totalitarian kind of  
29 imposition and prohibition (as would be  
30 the case under compulsory arbitration) is





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1 abhorrent to the Labour Movement as well as,  
2 we hope, the present inquiry.

3 THE COMMISSIONER: Do you  
4 think they have compulsory arbitration in  
5 Russia?

6 MR. BOTT: I don't know if  
7 they have any kind of arbitration.

8 THE COMMISSIONER: They don't  
9 have arbitration of any sort. They don't  
10 have discussion. They do have imposition.

11 MR. BOTT: Well, I was thinking  
12 of the other way around where it become totalitarian.

13 THE COMMISSIONER: Nobody in  
14 this country really has any justification for  
15 talking about totalitarianism.

16 MR. MITCHELL: It is a question  
17 of degree.

18 THE COMMISSIONER: Of course it  
19 is.

20 MR. POLLOCK: I don't think  
21 there is a question where you can say that  
22 Australia and New Zealand are totalitarian.  
23 I don't think you can say it with a straight  
24 face, anyway.

25 THE COMMISSIONER: All conditions  
26 of labour in the plant are described by a  
27 court there. As Mr. Pollock said, they are  
28 not included in any agreement but they are  
29 included in an award which is settled by a  
30 court and it is accepted and they wouldn't have







1 any change there. So in one place they are  
2 not afraid of words and in the second place  
3 they accept it as part of their living and  
4 I think it is a very high stage of civilized  
5 living that they enjoy.

6 MR. BOTT: And what they  
7 call an award, is that the same as a collective  
8 agreement is to us?

9 MR. POLLOCK: Well, it covers  
10 the same issues, if that is what you mean. It  
11 covers the terms and conditions of work. It  
12 is not negotiated. Some parts are negotiated,  
13 as a matter of fact, and incorporated in the  
14 award. It is supposed to be our equivalent,  
15 I guess.

16 THE COMMISSIONER: There is  
17 a body that sits and listens to the arguments  
18 presented on both sides and then it decides.

19 MR. BOTT: When they issue  
20 this award is it for a specified length of  
21 time?

22 MR. POLLOCK: No.

23 MR. BOTT: They can accept an  
24 award today and go back again next week with  
25 a different argument?

26 MR. POLLOCK: If they think  
27 there is any chance of changing their minds,  
28 you can always go back, I suppose, but if you  
29 think up a new situation a new argument  
30 arises and it may change the whole factor so



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1 there may very well be a change but in the  
2 general run of things they last for a  
3 couple of years and they periodically change  
4 this, that and other things but it is of  
5 no point to go back constantly to the same  
6 tribunal and say the arguments that we  
7 argued yesterday, we would like you to look  
8 at them again. It is just not reasonable.

9 MR. BOTT: I wasn't referring  
10 to that. What I meant was that they are not  
11 cut off from going back to open an argument  
12 that perhaps wasn't discussed at first. They  
13 could do that immediately, could they?

14 MR. POLLOCK: Normally they  
15 are pretty thorough in addressing all their  
16 arguments. I don't think there are too many  
17 that are not presented at any of the hearings.  
18 They are very competent and skilled people  
19 operating the system there. Not that I am  
20 suggesting we don't have competent and skilled  
21 negotiators on both sides of our situation,  
22 but their complete commentary on our system  
23 is, when you ask them, I suppose if they are  
24 happy with compulsory arbitration and they  
25 say "Well, do you want us to return to the  
26 jungle as it exists here" meaning North America.

27 MR. MITCHELL: Well, do they  
28 have the idea that two parties should  
29 compromise or settle their own difference?

30 THE COMMISSIONER: Above these





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1 minimum rates the effective fact there is that  
2 these awards determine a minimum. There are  
3 two scales of minimum rate and now, in many  
4 of the states, that is applicable to all  
5 industry. But above that, the negotiation  
6 takes place and that negotiation is The Free...  
7 that except generally there is a prohibition  
8 against a strike.

9 MR. POLLOCK: I think in answer  
10 to Mr. Mitchell's question, there are certainly  
11 a lot of agreements that are negotiated between  
12 the parties and arrived at. They become the  
13 award rate. If the parties can agree with  
14 the exception that if the public interest  
15 is involved to any great extent, then the  
16 government may intervene as far as making  
17 representations to this commission as to whether  
18 or not they ought to accept this award. There  
19 are a lot of areas in every award that are  
20 consent. Some suggest as high as 90 per cent  
21 are agreed on by the parties and there are some  
22 aspects they just can't agree on so instead  
23 of going on strike they go to a third party  
24 and have them say "What do you think about  
25 our arguments?". Generally they are content.

26 THE COMMISSIONER: We are  
27 assuming that there is no agreement. Of course  
28 they have an agreement and we can register  
29 the agreement and it becomes the equivalent  
30 to an award of the court. But it is when you





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1 don't agree that these institutions are set  
2 up and they become operative. It is the  
3 fact that you can't agree in so many cases  
4 that it becomes necessary and finally at  
5 the end of a strike your vote is exhausted  
6 and you say "We will accept anything". So  
7 you have to carry it out to the last  
8 breath, you might say.

9 MR. BOTT: Management would  
10 not bargain seriously if they knew that they  
11 could fall back on government intervention after  
12 they had performed their duty of sitting at  
13 the bargaining table for the prescribed  
14 number of meetings. Where both sides know  
15 that compulsory arbitration will be the  
16 ultimate answer the incentive to bargain  
17 is removed and both sides would sit on their  
18 hands and bargain with tongue in cheek, and would  
19 adopt the fatalistic attitude of "Queen's Park is  
20 going to do it for us anyway".

21 Don't you visualize this in  
22 the light of compulsory arbitration, that  
23 nobody is going to make an honest attempt  
24 if they are going to have to go to somebody  
25 to say what is going to happen?

26 MR. POLLOCK: To take Mr.  
27 Mitchell's aphorism, the devil you know is  
28 better than the devil you don't know. The  
29 arbitration tribunal - or whatever it is -  
30 seems to make a bad decision against management





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1 and they may be reluctant to have it go that  
2 far. They may feel "Well, I can strike a  
3 better bargain with the people here than to  
4 let it go all the way". It may be that  
5 compulsory arbitration might act as a kind  
6 of encouragement to come to an agreement.

7 THE COMMISSIONER: Are you  
8 conducting your argument here on the basis  
9 that it is a suggestion that it be made  
10 universal? Because if you are, you are not  
11 discussing the real point. This is the  
12 only suggestion in relation to our essential  
13 industry, that is all. But you have your  
14 wife and child today and they want to go  
15 into the hospital and they can't do that  
16 because there is a strike on. What would  
17 you think of that?

18 MR. BOTT: Not very much.

19 MR. MITCHELL: Well, I don't  
20 know, with reference to this remark, that  
21 management adopts a fatalistic attitude and  
22 Queen's Park is going to do it for us anyway.  
23 Here, Queen's Park is the devil we know.

24 MR. POLLOCK: No, the other  
25 side is the devil you know. You don't know  
26 how an arbitration tribunal is going to make  
27 a decision.

28 MR. MITCHELL: Well, we know  
29 we are going to get arbitration or we are  
30 going to get a conciliator.







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1 MR. POLLOCK: And he may  
2 very well say "I will give you everything  
3 you demand" to the union and to the company,  
4 "You are dead wrong".

5 MR. MITCHELL: He may, but  
6 this hasn't been our experience.

7 MR. POLLOCK: You haven't had  
8 any experience.

9 MR. MITCHELL: I was going  
10 to suggest here that if Queen's Park is  
11 going to be the devil we don't know and Queen's  
12 Park would have possibly four or five choices  
13 and the conciliation or arbitration could  
14 be one of these choices, and in this way,  
15 we know there is a third party and we don't  
16 know which way he is going to jump and we  
17 may be more willing ----

18 MR. POLLOCK: That is certainly  
19 a suggestion.

20 MR. MITCHELL: I don't know  
21 what the exact record is but I understand there  
22 is some degree of success in the United States  
23 here.

24 MR. BOTT:

25 " III Conciliation

26 Essential changes in conciliation  
27 procedures would be most welcome by the  
28 Labour Movement.

29 The first is a streamlining  
30 of the understood "cooling off" period. This



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1 system of nagging delays in appointing an  
2 officer, and perhaps a board, then the  
3 inevitable waiting for a report, has the  
4 effect of creating more unrest and  
5 dissatisfaction than it has in actually  
6 contributing to the "cooling off " process."

7 This paragraph, I feel they  
8 put in from personal experience from our  
9 membership and my own local is around 1200  
10 people and we feel that this contributes  
11 more to the general unrest than the actual  
12 happenings of the collective bargaining  
13 procedure. In other words it comes in  
14 so tied up that you can't do anything one  
15 way or the other.

16 THE COMMISSIONER: It was  
17 argued yesterday that you ought to be able  
18 to strike when the contract is ended. That  
19 is when the agreement comes to an end.  
20 What would you say if you put a further period  
21 of two months within which conciliation proceedings  
22 will have been considered to be ended even  
23 though they haven't been ended. So that at  
24 the end of two months after the termination  
25 of the contract, you are in a position to  
26 declare a strike if you see fit.

27 MR. BOTT: I don't know if I  
28 understand you properly. Let me say this:  
29 that I think conciliation should be available  
30 after one or two or however many meetings



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1       either party feels ----

2                       THE COMMISSIONER:     This is  
3       not interfering with conciliation at all.  
4       We are saying if conciliation doesn't bring  
5       you finally an agreement within two months  
6       after the termination of the contract you  
7       are in a strike position.

8                       MR. BOTT:     Well, I was  
9       trying to move the whole process back earlier.

10                      THE COMMISSIONER:     Well,  
11       that's what I said.   It was suggested that  
12       that period be placed back to the termination  
13       of the agreement.

14                      MR. MITCHELL:    You are saying  
15       that this allows formal negotiation?

16                      THE COMMISSIONER:    Yes, and  
17       it is fixed.

18                      MR. MITCHELL:    And regardless  
19       of whether conciliation procedures have  
20       been adopted, it is legal to strike.

21                      MR. POLLOCK:    Yes, unless  
22       both parties agree to extend the hearings.

23                      MR. MITCHELL:    This would  
24       probably make a contribution to the idea of  
25       settlement a little earlier.   Now whether  
26       the two months is a good period, I don't know.

27                      THE COMMISSIONER:    You would  
28       have four months.

29                      MR. MITCHELL:    But you might  
30       say one month or even less, I am not prepared





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1 to suggest ----

2 THE COMMISSIONER: Well, it  
3 would be something of that sort. I think  
4 this is one of the big problems. As it stands  
5 now, the negotiating committee has to go  
6 back to the membership and say "We are going  
7 to do this as quickly as we can, but that is  
8 all we can say." It might be six months before  
9 we hear from them again, or eight months. But  
10 generally speaking, they are parties to this  
11 extension.

12 MR. MITCHELL: Yes, but you  
13 mean the union is party to the extension?

14 THE COMMISSIONER: Yes.

15 MR. MITCHELL: I can't say that.  
16 I don't know how many times ----

17 THE COMMISSIONER: Well, in  
18 many cases they are and I don't know if there  
19 was failure to negotiate in good faith.

20 MR. BOTT: Well, from my own  
21 experience in our own negotiations, the feeling  
22 was - and I know once we applied for a  
23 conciliation officer in April, or we applied  
24 for conciliation services - from April until  
25 September when we finally got a report, those  
26 five months were useless as far as collective  
27 bargaining was concerned. We admit it was  
28 granted but nothing happened.

29 THE COMMISSIONER: Well, if  
30 you give notification two months before the



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1 expiration of your agreement, you have that  
2 two month's longer and you should normally  
3 be able to settle your agreement within that  
4 time, shouldn't you?

5 MR. BOTT: Well, I agree that  
6 would be a step in the right direction, yes.  
7 And we could see a certain final time when  
8 we had to have what we set out to have done.

9 MR. MITCHELL: I think perhaps,  
10 sir, that a good part of the negotiation, and  
11 I think management is much more guilty of  
12 this than the unions, sitting down to  
13 negotiate simply because they have to and  
14 not because they have any serious intent  
15 of negotiating in good faith. They go  
16 to the conciliation stage and through the  
17 motions and nothing more. Then the serious  
18 conciliation is done between the seven days  
19 before the conciliation report is handed  
20 down and it is seven days before a legal  
21 strike. This is after we are supposed to  
22 have experienced a cooling-off period which  
23 has actually been a heating period and people  
24 have become frustrated.

25 MR. BOTT: "We feel, quite  
26 strongly, that this system of delay and  
27 waiting has contributed more to the unsettled  
28 attitude of the potential strikers than the  
29 issues themselves.

30 The second is that conciliation,







1 if it is to be enforced, (and we seriously  
2 question the worth of enforced conciliation)  
3 must be made available prior to the contract  
4 termination date, so when the contract  
5 terminates some form of action is available to  
6 the parties. We grant that in recent times  
7 the conciliation process is slightly improved  
8 but a vast area of procrastination, delay and  
9 a drawing out of the conciliation procedure  
10 still remains.

11 IV Management Rights

12 There is a broad range of subjects  
13 which are related to this particular segment  
14 of collective bargaining. However, at this  
15 time we would direct our remarks primarily  
16 to the ever-increasing problem of management  
17 rights in technological change.

18 Many noted and learned men in  
19 the field of labour disputes and arbitration  
20 have voiced the opinion that so-called  
21 management rights are largely a hold-over  
22 from pre-collective bargaining days. To  
23 name a few we would point out Professor Bora  
24 Laskin, Professor Arthur Kruger, S.M. Slicher,  
25 Arthus J. Goldenberg, and perhaps most well  
26 known to us, at least the most publicized,  
27 Mr. Justice Freedman.

28 Mr. Arthur J. Goldberg stated  
29 "Both parties have rights to stability and  
30 protection from unbargained changes in wages,





1 hours and working conditions". We chose to  
2 refer these "unbargained changes" to the  
3 present large looming problem of technological  
4 change.

5 " Labour and management should  
6 negotiate changes in working conditions  
7 which affect workers as well as management  
8 when these changes take place during the  
9 life of the contract.

10 If negotiations cannot solve  
11 problems arising from technological change  
12 during the life of the contract, legislative  
13 provisions should be made to provide for the  
14 resolving of these problems, including the  
15 right of the workers to bring their economic  
16 strength into the picture. By this we mean,  
17 if there are no contract provisions definitely  
18 covering the area of technological change  
19 during the agreement, the right to strike  
20 should be available.

21 The whole burden of adopting  
22 technological change in the workplace  
23 should not fall on the shoulders of the worker,  
24 as by and large, it now does. "

25 We feel that there are  
26 too few collective bargaining agreements and  
27 collective bargaining agreement provisions  
28 that even begin to touch the area of technological  
29 change. There are technological changes that  
30 perhaps aren't even recognized as such by a



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1 lot of working people. Just for instance, in  
2 my own experience, we have had a technological  
3 change in the past two months that affected  
4 40 people and I don't think half the membership  
5 realized what happened. New monsters were  
6 eased into the plant and engineered and turned  
7 over to production.

8 MR. POLLOCK: You mean  
9 they were employing female labour?

10 MR. BOTT: The machinery I  
11 am talking about came into being so slowly  
12 that people heard about it and then they  
13 saw some physical evidence of it and it  
14 went into production on more or less  
15 experimental work and the engineers took  
16 it over and, in fact the whole process took  
17 10 or 12 months, I suppose, but 40 people  
18 were out of work and under our contract, we  
19 can't do anything. All we can negotiate  
20 is that the most junior people get laid off  
21 but that doesn't happen to most junior people.

22 THE COMMISSIONER: So 40  
23 people were let out.

24 MR. BOTT: Yes, and with nothing.

25 THE COMMISSIONER: With no  
26 terms at all?

27 MR. BOTT: With no returning  
28 or anything. The ones who were let out  
29 with more than a year's service fall under  
30 our sub-plan. That is all the benefit they





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1 receive. That is the supplementary unemployment  
2 benefit. There is no way we could get them  
3 any concessions in the way of retraining or  
4 even advance notice. When we tried to find  
5 out who would be affected and how, we couldn't  
6 get any help.

7 MR. POLLOCK: Well, they got  
8 phased out over the 10 month period?

9 MR. BOTT: No, it came in  
10 a lump and it took 10 months to get there.  
11 And they all left in a matter of two or three  
12 weeks.

13 MR. POLLOCK: But they could  
14 have implemented this machinery 10 months  
15 ago in one fell swoop, and said "Thanks very  
16 much, we will see you around"?

17 MR. BOTT: No, in a machine  
18 like this they couldn't do that, but it is  
19 possible. It still didn't matter and there  
20 still should have been protection there for  
21 the people involved in one manner or another.  
22 I am not saying they should have been kept  
23 at work.

24 THE COMMISSIONER: The company  
25 made no attempt to discuss means by which the  
26 consequences could be looked after?

27 MR. BOTT: No.

28 MR. POLLOCK: You are not  
29 suggesting in your submission that the question  
30 of whether or not automation ought to occur is





1 a negotiable item or, I think what you are  
2 saying is that you ought to be able to  
3 negotiate the impact of the change. You  
4 are not suggesting keeping machines out of  
5 the plant, but you are saying that if you are  
6 going to introduce them, let us talk about  
7 the best way to reduce the effect of the  
8 impact on the present working force.

9 MR. BOTT: Yes, let's have  
10 6 months or 9 months or even a year where  
11 we could dig out the people who are going  
12 to be affected and give them an opportunity  
13 for retraining in the plant if possible and  
14 if not, someplace else through governmental  
15 agencies. I don't suggest that the company  
16 keep them on and buy 20 new brooms, or  
17 something like that.

18 MR. POLLOCK: Perhaps you  
19 could put that into your agreement next year  
20 whenever it comes open.

21 MR. BOTT: Well, it is  
22 difficult to negotiate something like that.  
23 You are trying to negotiate something that  
24 you can't talk about yet.

25 MR. POLLOCK: Well, if it  
26 is difficult to negotiate, it is probably  
27 even more difficult to legislate.

28 MR. BOTT: Don't you think  
29 there would be - I don't know what you want  
30 to call it but - some benefit to being able





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1 to negotiate halfway through the agreement  
2 when the problem comes up?

3 MR. POLLOCK: There is no  
4 question about that. It is a question of  
5 persuading the employer there is some benefit  
6 in it and the only way that you have available  
7 to you to persuade the employer and put some  
8 teeth in it, is to include it in your collective  
9 agreement. He is not going to be persuadable  
10 at that time, by whatever sanctions you have  
11 available to you, then you even stand a lesser  
12 chance when he doesn't have to. In the  
13 middle of an agreement, he knows nothing can  
14 happen to him.

15 THE COMMISSIONER: Well, you  
16 can see that any fundamental change in the  
17 introduction of an entirely new machine would  
18 eliminate, say, 50 per cent of your staff, that  
19 that would be something to arbitrate, at least  
20 during the period of that agreement. There  
21 is no doubt about it, that in the broad sense  
22 the benefit accruing from a change like that  
23 ought to have charged against it a certain  
24 serious consequence resulting from it. It  
25 is like part of the cost of the machine; that  
26 is the damage that is done to the men.

27 MR. BOTT: Well, I was trying  
28 to follow the thought here. Supposing you  
29 had a contract provision like you have just  
30 outlined. How could you take that to arbitration





1 at the time and what would you take it to the  
2 arbitrator with? What kind of a problem  
3 would you place in front of him?

4 MR. POLLOCK: I assume you  
5 would negotiate the impact. You want notice  
6 and you are going to get more than notice;  
7 you are going to get an opportunity to discuss  
8 the matter and how you are going to resolve  
9 it, that is another question - if you put to  
10 an arbitrator whether he thinks that one  
11 system or another system is fair - I don't know  
12 whether arbitrators that we have today  
13 can decide that kind of question. Maybe we  
14 can and maybe this is the type of people we  
15 need to settle disputes.

16 THE COMMISSIONER: You can't  
17 prevent them from putting in the new equipment  
18 but you can say "Well, now, let us look at  
19 the consequences and we will negotiate the  
20 consequences".

21 MR. MITCHELL: I think if we  
22 are going to talk negotiations, we have got  
23 to have the ultimate weapon of a strike during  
24 the life of the agreement.

25 THE COMMISSIONER: Why? Isn't  
26 it better to have that than nothing?

27 MR. MITCHELL: It is probably  
28 a start in the right direction.

29 THE COMMISSIONER: Well, you  
30 can't strike to prevent the change being made.





1 That was settled 200 years ago.

2 MR. MITCHELL: I agree, but  
3 one can negotiate the consequences of the  
4 machine?

5 THE COMMISSIONER: It is a  
6 matter of fair adjustment. You can suggest  
7 that new training can be one means that it  
8 would be more necessary. Train them to use  
9 these machines or train them generally.

10 MR. MITCHELL: Obviously the  
11 people aren't even needed with these machines  
12 and I don't think the company should be  
13 allowed, if we can't strike during the life  
14 of the agreement, I don't think the company  
15 should be allowed to make changes in their  
16 work force.

17 THE COMMISSIONER: Well, what  
18 do men do? That is like saying you can't put  
19 the new machines in.

20 MR. MITCHELL: Well, they can  
21 put them in but I am not suggesting this is  
22 any proper answer, but that is better than  
23 no answer. At least it looks after the  
24 individual.

25 THE COMMISSIONER: No, the  
26 essential thing is that if the person replaced  
27 by that machine, they might be capable of  
28 operating new machines and possibly working  
29 someplace else and being trained for it or  
30 getting new employment.







1 MR. MITCHELL: Well, industrial  
2 homicide is a pretty sudden thing and in  
3 this way we have got to have some kind of  
4 machinery to protect the individual when he  
5 is displaced by automation, even if it is  
6 only a machine that is 90 per cent of his wages.

7 THE COMMISSIONER: Well, you  
8 are afraid of ventilating these matters and  
9 seeing them in all aspects. You can't dictate  
10 the settlement because of the advance of the  
11 life you are seeking depends on the acceptance  
12 of these new ideas and putting into effect  
13 greater powers in production. But, on the  
14 other hand, the consequences to the workers  
15 are very serious for them and it is essentially  
16 a social question.

17 MR. MITCHELL: I think perhaps,  
18 sir, if you took or could regulate to some  
19 degree the innovation of new machinery ---

20 THE COMMISSIONER: Regulate  
21 what?

22 MR. MITCHELL: Well, after  
23 a certain time, the public has to be aware  
24 of what is going to take place in a given  
25 plan or economy, the public and the workers  
26 and the management.

27 THE COMMISSIONER: The public  
28 may be interested in one sense but not in the  
29 immediate sense.

30 MR. MITCHELL: Well, I think





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1 these should be studied and be known in  
2 advance what they are going to do and proceed  
3 according to a plan rather than just helter-  
4 skelter.

5 THE COMMISSIONER: Well, the  
6 means of arriving at certain general ideas  
7 of how adjustments may be made by, for instance,  
8 putting down as one item, training or retraining.  
9 And there is new occupation or new work to  
10 be done and looked after either in the plant  
11 or elsewhere. In one sense, it is an  
12 unemployment feature or question.

13 MR. MITCHELL: I think we  
14 can't just say retrain. There is extensive  
15 study and research needed and what future  
16 retraining is needed. There is no sense  
17 of training an unemployed welder to be an  
18 unemployed machinist. I think this is a long-range  
19 project.

20 THE COMMISSIONER: Well, they  
21 have facilities for retraining in the province.

22 MR. MITCHELL: They have and  
23 there is one instance - I am sorry I don't  
24 know where it was - but somewhere in Western  
25 Ontario, I believe where they set up a school  
26 to train unemployed persons and they wanted  
27 to train them to be welders so they went  
28 over to the unemployment insurance office  
29 and got an unemployed welder to train people  
30 to be welders. I think this research into





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1 retraining is a long-range thing and we will  
2 come up with some answers as to which  
3 direction people should be retrained. I  
4 think we've got to have something for the  
5 people who are displaced today and tomorrow,  
6 by automation and some sort of a stop-gap.

7 THE COMMISSIONER: Well, that  
8 is an entirely new conception of the  
9 obligation of society to furnish work for  
10 people generally, even in the generation  
11 of those present here, men looked after  
12 their own occupations. But here, we have  
13 accepted the policy of full employment  
14 which places an entirely new obligation  
15 upon the community and the question is  
16 working that out, which would be acceptable  
17 by the community.

18 MR. MITCHELL: Well, as I say,  
19 I think the retraining matter is a long-range  
20 thing and we need positive and immediate steps  
21 and if management won't take them, then the  
22 position of the union should be strengthened  
23 so that they can take immediate stop-gap action.

24 ---Short recess.

25  
26 MR. BOTT: The last thing  
27 I would like to point out, is a social thing  
28 too; that under the present system of these  
29 technological changes, the burden does fall  
30 on the worker, except in rare instances like





1 some of the oil companies where they have a  
2 good advance system of retraining. But it  
3 is easier to see the technological changes  
4 in that type of operation in a large, old  
5 established plant, technological changes  
6 kind of ease into the thing and it doesn't  
7 carry the same impact except on a dozen  
8 or 20 or 40 people that it affects.

9 MR. POLLOCK: Except in  
10 those circumstances when the old plant gets  
11 to such a degree of antiquation that they  
12 move the premises to a new place and build  
13 a new plant.

14 MR. BOTT: Well, that affects  
15 everybody.

16 MR. POLLOCK: It is much more  
17 drastic.

18 MR. BOTT: The smaller ones  
19 I am trying to point out that could possibly  
20 affect a half dozen people and to them, the  
21 effect is the same as if it affected thousands.

22 " V Strikes, Picketing, and the Incorporation,  
23 licencing and Liability of Unions.

24 For our views of these subjects  
25 we heartily concur with the Ontario Federation  
26 of Labour's submission to the Inquiry in  
27 December 1966, and we would refer you to that  
28 submission."

29 I don't think I can say anything  
30 more, except what I said in my first letter.





1 MR. POLLOCK: Do you want to  
2 go to that letter at this stage?

3 MR. BOTT: I have it here, yes.

4 MR. POLLOCK: Do you have an  
5 extra copy of that?

6 MR. BOTT: No, I am sorry, that  
7 is the only copy we have.

8 MR. POLLOCK: I was just thinking  
9 of the reporter and I don't know if you are  
10 going to read it or not.

11 MR. BOTT: Well, I followed  
12 your layout here when I answered the first  
13 letter, so perhaps you would go down the letter  
14 and question us on it, rather than go through  
15 it.

16 MR. POLLOCK: Well, there are  
17 a couple of points that I would ask some  
18 questions on the answers and I don't know if  
19 you want us to go through and ask all the questions  
20 on the outline and then have you give the  
21 answers because they are pretty well set out  
22 in your brief. There are some aspects of them  
23 that I would like to ask about. For example,  
24 on the second page of your brief you say:

25 "The existing regulations  
26 of illegal strikes are quite  
27 adequate, in fact, from the  
28 labour viewpoint, are overly  
29 restrictive."

30 Now you say:







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1 "As an example, consider the  
2 small number of illegal strikes  
3 at the present compared with  
4 the period immediately  
5 following the second world  
6 war."

7 First of all, I would like you to amplify by  
8 example, or otherwise, what you mean by  
9 "overly restrictive".

10 MR. BOTT: Well, in the  
11 question you asked: "Are the sanctions  
12 adequate to regulate illegal strikes".

13 MR. POLLOCK: That is civil  
14 and criminal sanctions.

15 MR. BOTT: I feel that they  
16 are adequate enough and they are also a  
17 cloud on the horizon and I say this in  
18 reference to the next statement that they  
19 are many times less now than they were 18  
20 years ago, or 20 years ago. Isn't this due  
21 to the regulation of the Labour Relations Act?

22 MR. POLLOCK: It may be due  
23 to a change in the economy or the attitude  
24 of the people and it may be due to the fact of  
25 people coming out of the war and there may  
26 have been a feeling of exuberance.

27 MR. BOTT: Or rebelliousness?  
28 This is my opinion of the reason that the  
29 Labour Relations Act is now more enforced or,  
30 at least, more to the attention of the people



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1 involved.

2 MR. POLLOCK: But you say they  
3 are overly restrictive and by that it indicates  
4 they would have to be less restrictive. If  
5 you accept the fact that strikes are illegal  
6 in some circumstances, how do you suggest  
7 that the penalties against illegal actions  
8 ought to be lessened?

9 MR. BOTT: I don't do that  
10 at all. From the other arguments we have  
11 been having about technological changes, I  
12 think we argued the same thing back in  
13 compulsory arbitration, that some of these  
14 illegal strikes should not really be illegal.

15 MR. POLLOCK: Which ones  
16 are those?

17 MR. BOTT: Involving technological  
18 changes, for instance.

19 MR. POLLOCK: Are there any  
20 others?

21 MR. BOTT: As we were talking  
22 about compulsory arbitration, some of those  
23 were brought out too. This is what I referred  
24 to in this question.

25 MR. POLLOCK: The next  
26 question relates to ancillary tactics other  
27 than picketing that ought to be available  
28 to the parties to a dispute, including boycotts,  
29 temporary or permanent hiring of replacements,  
30 defensive walk-outs, union discipline of non





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1 strikers. Your answer to that - you suggest  
2 that the ancillary or secondary tactics to  
3 parties concerned in disputes should not  
4 include the hiring of replacements as  
5 strikebreakers. This practice has the effect  
6 of nullifying any economic pressure which  
7 the union can bring to bear on the companies,  
8 especially in light industry, that is small  
9 electronic parts manufacturers, textile  
10 work, shoe manufacturers, dry cleaning  
11 establishments, et cetera.

12 Now when you talk about  
13 economic pressure, isn't that one of the  
14 elements of economic pressure, the ability  
15 of the employer to carry on his business in  
16 the absence of a group of people that are  
17 not satisfied to work under the present  
18 existing conditions?

19 MR. BOTT: The effect of  
20 some of these small places that I have  
21 mentioned there, is that if there are 5 or 6  
22 on a work force and they decide to go on  
23 strike, they might just as well quit their  
24 job and try to get work someplace else.

25 MR. POLLOCK: They are in  
26 a poor economic position.

27 MR. BOTT: That is right  
28 and they are even in a poorer economic position  
29 in that, if they do go out on strike, because  
30 the boss is just going to go out and hire six



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1 more people right after the strike. He doesn't  
2 have to look for good workers and he doesn't  
3 have to look for experienced workers.

4 MR. POLLOCK: It is the question  
5 that they are in a position of very weak  
6 economic pressure.

7 MR. BOTT: Yes.

8 MR. POLLOCK: They can't really  
9 support a strike for any length of time because  
10 the employer doesn't need them that much, so  
11 bearing in mind the present policy of the  
12 Labour Relations Act and the legislation in  
13 this province and in collective bargaining  
14 which is not to intervene unduly, and most  
15 of that is at the behest of the union,  
16 perhaps a considerable amount on the basis  
17 of the company. Once you bring the parties  
18 together and one is strong, the other is weak,  
19 you take them the way you find them and it  
20 is a question of economically weak unions  
21 saying "We are economically weak, please pass  
22 laws to give us some more strength".

23 MR. BOTT: The way you put  
24 it, you are right, but there are places in  
25 the world and in the United States where  
26 strike breakers are not allowed.

27 THE COMMISSIONER: Where is  
28 that?

29 MR. BOTT: In New York State,  
30 is it?





1 THE COMMISSIONER: Is it New  
2 York State?

3 MR. BOTT: I am not sure  
4 whether it is New York.

5 THE COMMISSIONER: I would be  
6 interested in getting that information if you  
7 can get it.

8 MR. BOTT: I will try to find  
9 it and notify you.

10 Strikebreakers are not allowed  
11 and they feel that they come to a lot speedier  
12 conclusion in their conciliation process.

13 MR. POLLOCK: I don't doubt  
14 it. I suppose if you padlocked the plant  
15 you would come to a speedier resolution of  
16 your problem but those aren't economic  
17 forces, then.

18 MR. BOTT: No, they are an  
19 auxiliary economic force to the strikers that  
20 can't afford to go on strike economically  
21 and how else should I say it? They can't  
22 even put a dent in the employer's position  
23 by withdrawing their labour because there  
24 are only half a dozen girls, say.

25 MR. POLLOCK: Well, that is  
26 the situation that exists in that particular  
27 industry. I can think of cases that have  
28 been put to this Commissioner, of companies  
29 who are in an equally vulnerable position.  
30 They can't take a strike of even an hour or





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1 two hours or ten hours. Take the electrical  
2 industry; they have to supply electricity  
3 and the bakery industry is another one that  
4 said that if they don't produce the bread  
5 the market is gone. They have perishable  
6 products, so that you can see many cases  
7 where a union won't be able to successfully  
8 promote a strike and other cases, a situation  
9 where the employer can't even bear a strike  
10 for even the shortest period of time. So  
11 that those areas - the ordinary operation of  
12 the economic forces is meaningless, because  
13 one side controls all the power.

14 Now, if you want to start  
15 resolving the power equation, it is a  
16 completely different question. Then maybe  
17 the only answer is some other method than  
18 strike.

19 MR. BOTT: You are talking  
20 about the Hydro.

21 MR. POLLOCK: I did mention  
22 them, yes.

23 MR. BOTT: Compulsory arbitration  
24 would be the factor on one side there, wouldn't  
25 it?

26 MR. POLLOCK: It would apply  
27 equally to whatever party happened to be  
28 economically weak, that is it couldn't use  
29 this weapon if it didn't have an economic  
30 weapon. Perhaps they might resort to some



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1 other technique of resolutions and the only  
2 one that I am not wedded to the idea, is  
3 arbitration by a third party.

4 THE COMMISSIONER: Take  
5 that case of a smaller industry, with a  
6 small number of employees. Would you  
7 accept compulsory arbitration if the hiring  
8 of strikebreakers was forbidden?

9 MR. BOTT: I don't know.

10 THE COMMISSIONER: You haven't  
11 thought about it?

12 MR. BOTT: No, I haven't.

13 THE COMMISSIONER: I would  
14 think, if those people were out of work there that  
15 they would be very glad to accept obligatory  
16 arbitration if the alternative was to seek  
17 other employment.

18 MR. MITCHELL: I think one  
19 point we have been missing here is -  
20 just make compulsory arbitration or some  
21 other third party form of decision, binding  
22 on both parties because it is an essential  
23 service. I think by and large we have  
24 overlooked the fact that before a union would  
25 go on strike in an essential service, I think  
26 they would act responsibly and I think there  
27 are several cases like this in hospitals.

28 MR. POLLOCK: There is no  
29 question about that, the fact that people  
30 would act responsibly; nobody is arguing with







1 that. The fact is that even if the most  
2 responsible people finally, after all kinds  
3 of democratic process, resort to that strike  
4 and close up the hospital, the damages  
5 incurred by that closing far outstrip any  
6 other considerations of decisions between  
7 the parties.

8 MR. MITCHELL: To make a  
9 third party decision final and binding and  
10 make the strike illegal so that both parties  
11 know, when they go into collective bargaining -  
12 when they first begin collective bargaining -  
13 that there is an automatic and dogmatic  
14 rule that they are going to have to live  
15 with when they get through their collective  
16 bargaining and collective bargaining then  
17 is a farce.

18 THE COMMISSIONER: You didn't  
19 go back far enough. When a person enters  
20 that employment, he understands what his  
21 future is going to be bound by and he accepts  
22 it. I want to work in a hospital - then on  
23 what terms? On these terms; and I accept  
24 those terms. Why should I be permitted  
25 afterwards to repudiate?

26 MR. MITCHELL: Well, if these  
27 services are so essential, and I think this is  
28 almost without exception - the fact that these  
29 essential services of people being paid what  
30 we might term substandard, for want of another



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1 word ----

2 THE COMMISSIONER: I wouldn't  
3 use that in relation to railways. They  
4 have more or less established the high rates.

5 MR. MITCHELL: In the past,  
6 yes, but I don't think at the present.

7 THE COMMISSIONER: Well, I  
8 happen to know something about railways.

9 MR. MITCHELL: At one time -  
10 20 years ago - the railroad was a high  
11 prestige job and it was a high paying job  
12 and they had union representation for years.

13 THE COMMISSIONER: I can go  
14 back 50 years and it was a very low paying  
15 job.

16 MR. MITCHELL: Yes, but 50  
17 years ago they didn't have established unions.

18 THE COMMISSIONER: Well, all  
19 I am saying is that the fluctuation took place  
20 in the course of years. 20 years ago, I  
21 don't think they were in a bit better position  
22 than they are today.

23 MR. MITCHELL: I think they  
24 were, sir. At that time, I think they were  
25 one of the higher paying industries and one  
26 of the high prestige jobs in the community,  
27 and so on, and I think they have certainly  
28 lost a good deal of this due to the fact that  
29 they haven't been in an effective bargaining  
30 position.





1 THE COMMISSIONER: We have had  
2 two strikes at least, which paralysed railroading  
3 from the Atlantic to the Pacific and this  
4 country needs that and it is vital to its  
5 existence.

6 MR. MITCHELL: Yes, but this  
7 last one was stopped and this is my view -  
8 and possibly it isn't yours, but it is my  
9 view - that it was stopped without adequate  
10 provisions and the adequate provision was  
11 back to work with an 18 per cent increase  
12 in wages.

13 THE COMMISSIONER: That was  
14 the basis at the start on which arbitration  
15 would commence.

16 MR. MITCHELL: And they have  
17 dropped behind continually for years and when  
18 the third party did stop them and take  
19 drastic action ----

20 THE COMMISSIONER: You can't  
21 say that because their contracts don't extend  
22 beyond two years. The contracts end in  
23 two years so they couldn't be suffering for  
24 years and years as you say. Every two years  
25 they have come to the public, in effect, and  
26 said "We want you to enforce the railways to  
27 pay us more money".

28 MR. MITCHELL: Yes, but they  
29 have been at a relatively poor bargaining  
30 position and this most recent incident finally







1 brought the matter to a head and they weren't  
2 prepared to accept these conditions any longer  
3 and they did take the drastic action of  
4 strike. Then the third party stepped in with  
5 even more drastic action and sent them back  
6 to work with an inadequate provision - a  
7 minimum of 18 per cent.

8 THE COMMISSIONER: But the  
9 great majority of them have finished their  
10 collective bargaining and settled on the  
11 matters. There are only two or three unions  
12 that are going to compulsory arbitration.

13 MR. POLLOCK: I think if you  
14 are trying to generalize from the hospital  
15 workers, I think you've got a tough row to  
16 hoe. I think, in general, the hydro employees  
17 are paid reasonably well and they are  
18 in the upper quartile of the equivalent  
19 servicing industry and I think in the other  
20 area of certainly airline pilots and those  
21 type of people, they are paid well, if they  
22 are in essential service. Perhaps what  
23 you are talking about is the fellow who is  
24 employed in a hospital as an orderly, who  
25 is being poorly paid, and you have some merit  
26 there, if you keep your argument in that area.

27 MR. MITCHELL: Then suppose  
28 we do keep it in this area and this doesn't  
29 mean that I agree that the other people are  
30 well enough paid for such essential services.





1 MR. POLLOCK: Well, do you  
2 pay people because of the supply and demand?  
3 Do you pay people because of the nature of  
4 their service? If you were working in or  
5 performing a function of a machinist in a  
6 plant that manufactured essential widgets  
7 and somebody was working in a machine shop  
8 manufacturing nonessential widgets and you  
9 were doing the exact same function, is there  
10 any reason why the essential man should be  
11 paid more than what you are doing?

12 MR. MITCHELL: No, but he  
13 should receive a like pay.

14 MR. POLLOCK: All right, but  
15 it is a questioning of determining what is  
16 the fair remuneration of a job. It is not  
17 saying because that is an essential service,  
18 because you have a gun to the head of the  
19 employer, that he should be getting more. You  
20 get a fair remuneration and I don't think  
21 anybody is in disagreement with that, people  
22 should be getting fair remuneration. The  
23 question, of course, is what is fair? How  
24 much? That is something that perhaps might  
25 be open to discussion.

26 MR. MITCHELL: Well, the point  
27 I am trying to make is - if these essential  
28 services are so essential, then the pay should  
29 be so essential that they shouldn't want to  
30 go on strike. But they should be acting





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1 responsibly, and they should have responsible  
2 leadership.

3 THE COMMISSIONER: What is  
4 responsible action? We know in some  
5 cases there is not responsible action and the  
6 government has to step in. Men are not  
7 perfect and I know we mean well generally  
8 when our spirits are more or less settled, but  
9 the moment our feelings are aroused, then we  
10 tend to be - or to expand both our statements  
11 and our demands.

12 MR. MITCHELL: Well, it is  
13 a matter of-responsibility is a matter of  
14 degree. For example, the hospital worker  
15 might be acting irresponsible if he went  
16 on strike for \$2 an hour whereas an airline  
17 pilot that you mentioned might not be acting  
18 irresponsibly if he went on strike for \$5  
19 an hour. This is a matter of degree.

20 THE COMMISSIONER: That is  
21 true but the trouble is we have no criteria  
22 from which to determine these things.

23 MR. MITCHELL: I think there  
24 should be some kind of criteria, at least a  
25 decent minimum living standard for everybody.

26 THE COMMISSIONER: Then you  
27 place the standard of life first and then  
28 find out what it costs to live up to that  
29 standard. But that hasn't been adopted as  
30 far as I know, except in Australia, with what





1 they call the general rate, but that is the  
2 minimum, like our \$1.25.

3 MR. MITCHELL: The airline  
4 pilot, for instance, his union might build  
5 an extremely good case on what to us would  
6 seem an extremely high rate of pay and he  
7 could base this on an extremely short work  
8 span. Possibly, his eyesight will deteriorate  
9 by the time he is 35 years of age to where  
10 he can no longer accept a responsibility as  
11 an airline pilot. This is quite under-  
12 standable, whereas, the hospital employee gets  
13 possibly an hourly rate of \$2 or an hourly  
14 rate of \$1 - and I am putting a ceiling  
15 on that hospital worker's earnings.

16 MR. POLLOCK: They won't  
17 nominate you to the board if that is the case.

18 MR. MITCHELL: I don't think so.  
19 But this might make an adequate wage for the  
20 life span of a hospital worker and therefore,  
21 we can say that the hospital worker is entitled  
22 to go on strike because he isn't making \$2 an  
23 hour and we could argue that he should be  
24 entitled to back his demands in some way for  
25 \$2 an hour. But we are saying that the airline  
26 pilot shouldn't be able to back his demands  
27 for \$5 or \$10 an hour and it is a matter of  
28 degree and I don't think we can limit anybody's  
29 demands or their ability to support their  
30 demands to the best of their ability. And the



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1 fact that it is an essential service shouldn't  
2 be the fact that limits his ability to earn  
3 a decent standard of living.

4 MR. POLLOCK: There is no  
5 question about that, but it is a question of  
6 what is a decent standard of living? Who  
7 is going to determine whether they are acting  
8 responsibly or not. There is no doubt that  
9 someone who is in a position that can halt  
10 an enterprise by stopping his work is in a  
11 vastly improved bargaining position than  
12 somebody who can be replaced at the snap of  
13 a finger; just on the question of bargaining -  
14 and that is the whole thesis of collective  
15 bargaining. It is the economic position  
16 and the tactics. If you can stop an industry  
17 by pulling yourself out of that industry  
18 and everything collapses, then not only does  
19 this building collapse but the one that depends  
20 on the power from it and all the way along  
21 the line and everybody else's industry, it is  
22 magnified like a high pressure hose opening  
23 up and bursting.

24 MR. MITCHELL: But I am having  
25 trouble expressing myself here, sir. I think  
26 if a person is in a weak bargaining position,  
27 and for example we mentioned a dry cleaning  
28 institute where there are only 5 or 6 people  
29 working. They are in a weak economic position  
30 and then I think society has a responsibility





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1 to step in and bring this person up to within  
2 whatever the accepted range of decent earnings  
3 would be.

4 MR. POLLOCK: How does society  
5 do that? Do you have a plebiscite and  
6 everybody votes to see what they are supposed  
7 to do?

8 MR. MITCHELL: In the injunction,  
9 for example, the action taken by society - and  
10 I am using the example just as an example ----

11 MR. POLLOCK: Stop at the  
12 injunction question because even without an  
13 injunction, you say these people are in a  
14 weak economic position. Now let's keep the  
15 two examples consistent.

16 MR. MITCHELL: All right, then  
17 they are in a weak bargaining position.

18 MR. POLLOCK: That is right  
19 and they need somebody to help them and you  
20 say "Society, please help me". So society  
21 says "All right, I will help you". But how  
22 does society help? They either pass a law  
23 to determine how much they are to have and  
24 how much they should have there, and that  
25 is arbitration.

26 MR. MITCHELL: All right, this  
27 is one of the basic things. A person, by  
28 accident, or birth or geographical area, or  
29 by accident of birth or by accident of less  
30 endowments than another person, for this reason



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1 is employed as someone ironing clothes in a  
2 dry cleaning establishment, should not have  
3 to suffer the indignity of a sub-standard  
4 living just because of an accident of birth,  
5 the fact that he is not endowed. This is  
6 one thing that my experiences in the labour  
7 movement has taught me, that I can tip my  
8 hat to the person who digs a ditch just as  
9 easily as I can tip it to the mayor of the  
10 City, if you follow me.

11 People who are in a weak  
12 bargaining position are people and, for example  
13 you say he chose that industry and this is  
14 the industry and he realizes when he goes  
15 into this industry, well, in many cases if  
16 he doesn't go into this industry, the only  
17 alternative is unemployment on the dole  
18 and this doesn't solve any of society's  
19 problems.

20 THE COMMISSIONER: Well, that  
21 really results from the differences in human  
22 beings and your criticism or your offensive  
23 has to be let out against nature. We are  
24 born that way.

25 MR. MITCHELL: But in society  
26 today we have a responsibility.

27 THE COMMISSIONER: Well, there  
28 is no inherent obligation of one man to help  
29 another and you don't help a man who is outside  
30 of the union.







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1 MR. MITCHELL: Oh, I think I  
2 would.

3 THE COMMISSIONER: You may  
4 personally, but I think as a unionist you  
5 don't. You look on him as a scab or a  
6 traitor or something of that sort. You  
7 wouldn't put out your hand if you saw him  
8 lying in the ditch.

9 MR. MITCHELL: I think I  
10 differ there. This is one of the reasons  
11 we are here.

12 MR. POLLOCK: Well, let me  
13 ask you if one of these under-endowed people  
14 have an opportunity to get out of the laundry  
15 and into your job while you are on strike  
16 because they are satisfied they can perform  
17 the function that you are doing, what is  
18 your attitude in those circumstances?

19 MR. MITCHELL: The problem  
20 is he wants to get out of the industry where  
21 he wasn't adequately provided for.

22 MR. POLLOCK: That is right.  
23 He wants to improve himself, which I think  
24 is a human trait, isn't it?

25 MR. MITCHELL: But this  
26 problem doesn't originate when he arrives  
27 at that picket line. The problem originated  
28 back here in his industry where he wasn't  
29 sufficiently endowed or in a bargaining position.

30 MR. POLLOCK: Well, all I can say



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1 is that your arms are no longer spread wide  
2 to welcome him at your plant.

3 THE COMMISSIONER: You see,  
4 in the first place we all demand liberty of  
5 action and that is right, there shouldn't  
6 be any restriction upon seeking out your  
7 own salvation. But really, in the competitive  
8 world that we all apparently support, we  
9 find that there are many people who, without  
10 fault on their part, they are laggards and are  
11 behind. Why is it we are sympathetic to them?  
12 We are not bound by any law and the majority  
13 of people are not sympathetic. So what you  
14 are overlooking are really the biological  
15 endowments of human beings. And you are just  
16 capable - and I don't mean you personally, but  
17 I mean the union man who looks to support from  
18 his associates in the union - will generate  
19 a hate towards him if he goes back on his  
20 obligation and can be very bitter and very  
21 harmful. Now why? It's a question of  
22 deepening the level of our civilized outlook  
23 and controlled action. We are all animals,  
24 you know.

25 MR. MITCHELL: Well, it seems  
26 to me, sir, that you are referring to some  
27 extent to social Darwinism.

28 THE COMMISSIONER: I am not  
29 influenced by words at all. I am trying  
30 to find facts and I don't care what you call them.



1 MR. MITCHELL: Well, this is  
2 the basis of our philosophy, that we should  
3 have our hands out to help people.

4 THE COMMISSIONER: It may be  
5 your basis but it is not the basis followed  
6 by all unionism and that is the thing that  
7 surprises me - that they can be so bitter  
8 towards men who, for other reasons which  
9 are justifiable, have failed to respect the  
10 union obligation.

11 MR. MITCHELL: I don't follow  
12 you, sir, and I disagree.

13 THE COMMISSIONER: Well, we  
14 have had evidence given here of how men were  
15 refused employment, they are unionists but  
16 they couldn't break into that group because  
17 the group wanted to maintain their work in  
18 a given region within their own accomplishment  
19 or performance. Men have come here and told  
20 us about these things.

21 MR. MITCHELL: I disagree and  
22 I hope I am not living under an illusion in  
23 the trade union movement.

24 THE COMMISSIONER: Generally  
25 speaking, no, and I agree there. But you  
26 are ruthless with what you call a scab.

27 MR. MITCHELL: Well this  
28 person deteriorated the position of the trade  
29 union or the philosophy of the trade union  
30 and it is our position to be as economically







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1 and so on, well off in the community as we  
2 can, and to bring this person up to us.  
3 Now a scab who comes across our picket line  
4 is trying to bring us down to his level.

5 THE COMMISSIONER: No, he  
6 isn't. He is satisfying a demand of his  
7 own nature, whatever that may be and  
8 it is in that end of the cycle where  
9 you wouldn't allow anybody to oppose that  
10 policy.

11 MR. MITCHELL: Well, I think  
12 there are some basic differences in philosophy  
13 here.

14 MR. POLLOCK: I think the basic  
15 difference is when it comes to the question  
16 of your job or his job, it is your job. And  
17 as long as we can talk about somebody else  
18 helping somebody else, that's a good point.  
19 Everybody is in favour of that and we are  
20 in favour of motherhood and against sin and  
21 all those things. But the point comes up  
22 to you and he is this underendowed fellow  
23 from the laundry and he wats to work in your  
24 plant and you are on strike and he looks  
25 at his \$1.25 an hour and your \$1.80 an hour  
26 that you are not content to work for - he will  
27 cross the picket line because he wants to work  
28 there. Now what is your treatment of him?  
29 Your treatment of him is to keep him out. "Keep  
30 that guy out. Keep him back in his own place.





1 Get him back to the laundry."

2 MR. MITCHELL: That is right.  
3 There is no question about it.

4 THE COMMISSIONER: Well, that  
5 is all we are saying.

6 MR. MITCHELL: I want to  
7 reiterate, sir, that the problem didn't arise  
8 when this person arrived at that picket line.  
9 I think the problem is basically back in  
10 his own industry when he wasn't adequately  
11 provided for because of his underendowment  
12 or for various reasons and because of his  
13 weak bargaining position - whatever the problem  
14 is.

15 MR. POLLOCK: Under the  
16 heading "Picketing" the question was:

17 "Does the law represent  
18 any suitable law between  
19 labour and management as  
20 to occasions and locations  
21 when and where picketing  
22 is permitted and as to the  
23 methods or form of picketing."

24 And your answer is:

25 "A suitable balance is not  
26 provided by present law.  
27 There should be no restrictions  
28 on peaceful picketing either  
29 in location, time, form or  
30 method."





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1 Now, having said that, I would like to know what  
2 you mean by "peaceful picketing" because if  
3 there is no restriction on form or method,  
4 then you could have peaceful picketing which  
5 wasn't peaceful. So, what then is meant  
6 by peaceful picketing?

7 MR. MITCHELL: I would think,  
8 sir, that peaceful picketing would refer to  
9 where there is no danger or threat of danger  
10 to persons or private property. I think this  
11 is the sort of general reference to peaceful  
12 picketing.

13 MR. POLLOCK: No danger or  
14 threat of danger to person or property.  
15 Then you would have to eliminate, I suppose,  
16 a huge crowd of people because there is certainly  
17 a threat in the mob action, isn't there?

18 MR. MITCHELL: Not as long  
19 as it is orderly.

20 THE COMMISSIONER: But we  
21 have had opinions from people who have really  
22 gone through these things and they admit -  
23 and very properly admit - that once you get  
24 a crowd and get it worked up to a critical  
25 attitude of passion and looking in windows  
26 and seeing other people working, you can't  
27 limit this to peaceful picketing. Their  
28 very presence there becomes a menace and  
29 they are going to express it and they do  
30 express it.



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1 MR. MITCHELL: Well, which  
2 came first, the chicken or the egg? Are the  
3 people outside the plant causing the menace  
4 or are the people inside the plant causing  
5 the menace?

6 THE COMMISSIONER: Well, who  
7 took the first step?

8 MR. MITCHELL: The people who  
9 went inside.

10 THE COMMISSIONER: No, no, it  
11 was the people who went outside. The initiated  
12 this action, they strike and they create  
13 vacancies.

14 MR. MITCHELL: Well, they  
15 struck over a disagreement with management.

16 MR. POLLOCK: And they  
17 say "Attention Public: This man is paying  
18 substandard wages" and the fellow on the  
19 outside looks at what he is making and looks  
20 at those substandard wages and said "They are  
21 better than mine. I want to go and work there".  
22 You have drawn attention to the fact that  
23 these working conditions exist at that plant.

24 MR. MITCHELL: Yes, but in many,  
25 many cases, the very fact that collective  
26 bargaining broke down and the very fact that  
27 these people are out on strike and the very  
28 fact that this employer is willing to hire  
29 strikebreakers is nothing more than a refusal  
30 to deal with the union. It is not a matter ---



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1 THE COMMISSIONER: Well, you  
2 cannot generalize in these cases.

3 MR. MITCHELL: I know you  
4 can't but in this case, and it has happened  
5 many times, employers have offered more to  
6 strikebreakers than he was paying his people  
7 who went out on strike.

8 THE COMMISSIONER: Well, you  
9 see, they can become worked up just as the  
10 strikers do and they are going to resort,  
11 with everything in their power, to defeat what  
12 they look upon as their enemy. I think it  
13 is a ridiculous thing to do but that is the  
14 inter-action between the two.

15 MR. POLLOCK: You've got the  
16 economic warfare aspect that you think the  
17 strike is necessary and you think you have  
18 to have this economic power so that if you  
19 are going to exert it against somebody -  
20 unless you say to him "Surrender", which I  
21 don't think you reasonably suggest, then  
22 you ought to appreciate that he ought to  
23 resist you economically if he can. He  
24 can't resist you with violence and he  
25 can't resist you illegally, but certainly,  
26 if other people are prepared to work under  
27 the conditions you are not, then he feels  
28 entitled to employ them and that is strictly  
29 economic pressure.

30 MR. MITCHELL: I don't feel that





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1 it is and when he hired a strikebreaker, if  
2 he is back up to a reasonable degree of  
3 production, it is no longer an economic  
4 pressure.

5 MR. POLLOCK: Well, he is  
6 just one.

7 THE COMMISSIONER: You see,  
8 what you are doing, and I think it is a  
9 proper thing, you are calling on the rest  
10 of the community to make such regulations  
11 as will bring about a more acceptable condition  
12 of relations between those who are concerned  
13 in producing goods. That is all, and you  
14 couldn't have a more difficult task placed  
15 in front of you than to determine what is  
16 fair and reasonable. You resort to one  
17 sort of thing and you get into disorder and  
18 the peace of the community is destroyed and  
19 poison is set between the people and their  
20 relations with one another is destroyed, and  
21 it all goes to the destruction of a society  
22 that is worthwhile being a member of. Then  
23 what you are doing is that you are asking  
24 society to do things. Now what the Commission  
25 would like to find out is, if you have anything  
26 to suggest other than those which have been  
27 followed up to the present and which have  
28 led, really, to the necessity of a reexamination  
29 of these relations.

30 MR. MITCHELL: Well, I don't



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1 think we have anything more or anything radical  
2 to suggest that hasn't already been suggested.

3 THE COMMISSIONER: But I  
4 think it is perfectly clear from what you  
5 say that, from the standpoint of a union and  
6 the strike, the greatest opponent you have  
7 is the strikebreaker. Now, do you call upon  
8 the community to act for that or do you try  
9 and draw him within your ranks so that you  
10 will have a solidarity that will resist  
11 all these blandishments?

12 MR. MITCHELL: No, I think  
13 we should call on the community.

14 THE COMMISSIONER: Why not  
15 yourself? That is your job. You ought to  
16 have the support of all labour men.

17 MR. MITCHELL: Well, we will  
18 endeavour to get him within our ranks but  
19 at the picket line when the strikebreaker  
20 is causing ----

21 THE COMMISSIONER: Well, it  
22 is due to the failure in the cohesion of  
23 workers. If they hold together they can  
24 stop work, they can stop production. If they  
25 don't then they won't.

26 MR. MITCHELL: But if the  
27 people in the plant hold together and the  
28 injunction tears them apart.

29 THE COMMISSIONER: But I am  
30 speaking of the labour force as an entirety.





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1 You represent about 26 per cent of the working  
2 force of this country. If you were 76  
3 per cent, you would be in a much stronger  
4 position because you would have much more  
5 support. You don't want the community to  
6 go out and organize your unions.

7 MR. MITCHELL: In the changing  
8 industrial society, it has taken all the  
9 resources of the trade union to keep abreast.

10 THE COMMISSIONER: I daresay,  
11 but we have got to dismiss the idea that  
12 we can establish Eutopia in this generation.  
13 We've got to submit to things that we would  
14 rather not submit to. We are all dominated by -  
15 or at least what some of us consider unnecessary  
16 desires - and we want decency and a decent  
17 society, of course. But there is no question  
18 of widespread poverty in this country or  
19 widespread degradation of living. We are  
20 very fortunate and I don't know any people  
21 in the world who are more fortunate than  
22 Canadians. It doesn't mean that they have  
23 reached the ultimate in their aspirations  
24 at all.

25 MR. MITCHELL: Well, I think  
26 the big part of our problem stemmed, down  
27 over the years, from managements' functions.  
28 A hundred years ago, it was quite clear cut.  
29 He was respected for running his business  
30 and maximizing profits and hiring labour,



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1 purchasing other resources as cheaply as he  
2 possibly could and selling them for as much  
3 as the market would bear.

4 MR. POLLOCK: And how is  
5 that changed today?

6 MR. MITCHELL: It hasn't. But  
7 the labour aspect of the economic community and  
8 the labour as an economic resource has had to  
9 change the organization and the displacement  
10 in agriculture due to better productive methods  
11 in agriculture. It has made the worker  
12 an urban creature, shall we say. He has  
13 had enough problems, sociological problems  
14 with the family aspect and so on, that he has  
15 progressed and he has now seen what is  
16 necessary to provide a decent standard of  
17 living in the community, whereas, there may  
18 be management people or individuals who are  
19 progressive enough and liberal enough to  
20 at least be abreast of the times, but by and  
21 large, there is still a great holdover from  
22 the old days when management had the right  
23 to hire and fire as cheaply as possible without  
24 a responsibility to his employees, the same  
25 as he has a responsibility to preserve the  
26 mineral resources of the land, and use them  
27 to the most efficient method.

28 There is an old story that  
29 some managers had more respect for their  
30 mules than they did for their people. They





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1 could hire new people but they had to pay  
2 \$25 to hire a new mule. I am not taking  
3 away from any management who is progressive  
4 enough and who does accept the principle  
5 of some responsibility to his employees and  
6 their welfare but these aren't the type of  
7 employers who will lay off 40 men as has  
8 been seen, and any management which lays  
9 off 40 men without warning, labour to him  
10 is just an economic commodity .

11 THE COMMISSIONER: That is  
12 exactly the language that is too often used  
13 by union people - that our labour is a  
14 commodity.

15 MR. MITCHELL: ....

16 THE COMMISSIONER: What you  
17 say is perfectly clear and I don't disagree.  
18 But the fact is that these changes which  
19 are fundamental, take time. We can't change  
20 them overnight.

21 MR. POLLOCK: The fact ~~that~~  
22 there has been considerable change, I think  
23 yesterday it was submitted to us by one  
24 of the people presenting a brief, that management  
25 insists on its sole right to hire, fire, lay-off  
26 and cut wages. I have some marginal notes  
27 there that their right to hire is restricted  
28 by union security clauses; their right to fire  
29 is restricted by just cause provisions in the  
30 collective agreement; and lay-off is governed





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1 by seniority clauses and they certainly can't  
2 cut wages during the currency of a collective  
3 agreement. Now, if you were to take this  
4 principle back 100 years, they would probably  
5 burn you at the stake.

6 MR. MITCHELL: Yes, but these  
7 are only restricted to 26 per cent of the  
8 work force and even then, only where the  
9 union has been in a strong enough bargaining  
10 position to secure these clauses and then  
11 in a strong enough bargaining position to  
12 enforce them. During the life of a contract ----

13 MR. POLLOCK: Are you suggesting  
14 that the unions aren't doing their job?

15 MR. MITCHELL: We aren't doing  
16 it as well as we should because the balance  
17 of power has been placed in the hands of  
18 management and this is a holdover from the  
19 years gone by.

20 THE COMMISSIONER: If you  
21 look back 100 or 125 years and compare the  
22 conditions then with conditions today, you  
23 would be forced to say "Well, it's a wonderful  
24 movement forward in civilized living that  
25 we have achieved," because you will find,  
26 among other things, that a statute of British  
27 Parliament would provide for certain purposes  
28 only. You couldn't engage a child under  
29 nine years of age, employ them for all the  
30 purposes you might.





1 MR. POLLOCK: Now, all through  
2 this discussion you have been wanting to get  
3 onto the question of injunctions. Let me  
4 give you an example of an injunction that  
5 says you can't commit any violence against  
6 people, you can't cause any damage to property,  
7 you can't threaten anybody, you can't physically  
8 obstruct the premises.

9 Now, given that injunction,  
10 how does that weaken the legitimate purpose  
11 of a trade union on strike?

12 MR. MITCHELL: Well, first  
13 of all, they may not necessarily do any  
14 of the things you have mentioned with 300  
15 people on a picket line, as I said before.

16 THE COMMISSIONER: Would that  
17 injunction be objectionable?

18 MR. BOTT: That isn't necessarily  
19 an injunction.

20 MR. POLLOCK: Well, I will  
21 put that in the form of a court order and  
22 stamp it and you've got it.

23 MR. BOTT: Well, you are not  
24 allowed to do any of those things.

25 MR. POLLOCK: Well, if you  
26 read a lot of injunction orders you will see  
27 that they prohibit that sort of thing because  
28 that is the type of conduct complained of.

29 MR. BOTT: Isn't that also  
30 prohibited by law?







1 MR. POLLOCK: It is also  
2 prohibited by injunction.

3 MR. MITCHELL: You mean this  
4 type of injunction would not prohibit the  
5 number of pickets?

6 MR. POLLOCK: I haven't said  
7 anything about the number of pickets, yet.

8 MR. MITCHELL: Isn't this  
9 the way people are governed even without  
10 a criminal law? Aren't people supposed to  
11 be governed by this?

12 THE COMMISSIONER: What's  
13 the difference. Would you rather be arrested  
14 by a policeman or receive a court order not  
15 to commit a certain offence on the picket  
16 lines? From the standpoint of social  
17 stigma, which would be the most objectionable?

18 MR. MITCHELL: Well, you  
19 still - it doesn't matter in either case, you  
20 won't be arrested by the policeman until  
21 you violate that injunction.

22 THE COMMISSIONER: No, no, no.  
23 You are saying you do not need an injunction  
24 because these are criminal offences and I  
25 ask you, would you rather be arrested without  
26 an injunction for a criminal offence than  
27 to have an injunction that told you the  
28 limits of your action under this order?

29 MR. MITCHELL: Well, I don't  
30 quite get the point of that, sir. We are



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1 limited.

2 THE COMMISSIONER: But you were  
3 asked a simple question. Would you object  
4 to an injunction which contained expressly  
5 those provisions?

6 MR. MITCHELL: I don't see  
7 how we could object to them.

8 MR. POLLOCK: Then you answer  
9 is that you wouldn't object to them.

10 MR. MITCHELL: Well, we are  
11 living under those provisions now.

12 MR. POLLOCK: Then you wouldn't  
13 object to them? The other question related  
14 to it was: How does that injunction - restricting  
15 that type of action which you admit to say  
16 is improper action - how does that restriction  
17 really affect the legitimate rights of a  
18 trade union that is on strike? You say, if  
19 you agree with me, that you can't beat people  
20 up and you can't threaten to beat them up  
21 and you can't damage their property and you  
22 can't physically prevent their access to the  
23 premises, then you must agree that those  
24 aren't any legitimate loss to the trade union.

25 MR. MITCHELL: Then the question  
26 could arise as to what constitutes a physically  
27 blocking access to the premises.

28 MR. POLLOCK: Standing in  
29 front of them and preventing them from going  
30 into the premises. When a car drives up, 15 or



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1 20 people stand in front of a car and they  
2 don't move.

3 MR. MITCHELL: Yes, I think we  
4 could object to any kind of an injunction.

5 THE COMMISSIONER: We have  
6 the idea an injunction is some sort of a  
7 hideous thing that you must object to  
8 because of its nature.

9 MR. MITCHELL: One of the  
10 things we do object to is the fact that it  
11 is an ex parte injunction.

12 MR. POLLOCK: The fact that  
13 it is ex parte or not doesn't change the  
14 existence of those circumstances. I am  
15 assuming that even after you have argued it  
16 out and have evidence - then there is no  
17 question about that. Assume that this  
18 injunction says "Don't do these things". You  
19 can't say that that legitimately weakens the  
20 union's position. It may, in fact, weaken  
21 the union position. Surely, if you hit  
22 somebody on the head he is going to be  
23 reluctant to cross the picket line and  
24 consequently it might close the shop if you  
25 burn down a part of the premises and you might  
26 weaken your economic position. But nobody  
27 has ever suggested that, have they? At least  
28 they haven't suggested it vocally to this  
29 Commission.

30 THE COMMISSIONER: The fact is







1 that you know that that language would be  
2 objected to because you are going to oppose  
3 the entrance to that plant if you can. Now  
4 it is easily understandable and I am not  
5 criticizing human beings. As one witness  
6 said, "according to human nature". It is  
7 human nature that resents it and it is  
8 human nature that brings up that passion  
9 within that is going to obstruct and so,  
10 really, the answer is that, yes, you would  
11 object to any injunction, "Leave us alone  
12 and let us carry this out as we think we  
13 have a right to do to enforce our claims".  
14 Now the question is, is that permissible in  
15 our society today?

16 MR. BOTT: Well, do we gain  
17 anything by repeating laws in an injunction?  
18 What does anybody gain by saying twice, "You  
19 shall not commit violence"?

20 MR. POLLOCK: Well, it  
21 clarifies the notice to the individual that  
22 his conduct is restricted in that way. I  
23 don't know if you have ever read the criminal  
24 code. You may feel that in a labour dispute  
25 you are permitted to do more than you could  
26 do in an ordinary situation, and all the  
27 injunction does is bring to your attention  
28 the fact that this type of conduct is prohibited  
29 and the only way you can get that type of  
30 injunction is to have some basis on which the





1 restrictions to be imposed are related to  
2 reality, and some of these things occurred.  
3 There is some physical obstruction and  
4 there is some violence and there is some  
5 of these things. There is affidavit evidence  
6 of it. It is not challenged in some cases  
7 and in some cases it doesn't provide much  
8 opportunity for challenge. But even in  
9 those cases, you can't argue against the  
10 fact that it has occurred. You may say  
11 "I was justified in doing that, I am protecting  
12 my job and I am doing all those things" but  
13 until you convince the legislature and the  
14 rest of the people that you are entitled,  
15 because of some right in your job, to physically  
16 prevent some other person to enter the premises,  
17 then you are still operating contrary to the  
18 law, and it is the law that your quarrel is  
19 against and not the injunction.

20 THE COMMISSIONER: You see  
21 the difficulty here in applying it to criminal  
22 law is that the criminal law acts on an act.  
23 You commit a crime and it is a single act.  
24 and you may be taken before the courts and  
25 punished. But here is something that isn't  
26 a single act. It is a continual act and  
27 it is going to be repeated from Monday until  
28 Sunday and from Sunday until the following  
29 Sunday and in that case you have no machinery  
30 in our law in the criminal aspect that deals







1 with the continuation of something that is  
2 prohibited. That is the justification for  
3 equity in stepping in and saying the injunction  
4 is one that does apply to your continued  
5 action. So your action is distinct from  
6 the ordinary criminal event.

7 MR. MITCHELL: I disagree with  
8 some of your remarks, sir. The criminal  
9 code would deal with an act of violence. Now  
10 there is not a continuous act of violence  
11 from Monday until Sunday.

12 THE COMMISSIONER: But you  
13 are arrested and put out on bail and you go  
14 back tomorrow and repeat it the next morning,  
15 and then the next morning and the next  
16 evening and each one is a separate act in  
17 the conception of the criminal law. Now these  
18 things haven't been thought out by you and  
19 you can accept those statements as a fact. You  
20 are not dealing with a single act which is  
21 done for that period of time. Because the  
22 very essence of the picket line is that it  
23 be maintained 24 hours a day.

24 MR. MITCHELL: That is right.  
25 But if there is no violence on it ----

26 THE COMMISSIONER: If there is  
27 no violence there won't be an injunction from  
28 the beginning.

29 MR. MITCHELL: But there are  
30 many cases or instances of where strikes went



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1 into effect on say, midnight and an injunction  
2 was in effect less than two hours later. It  
3 is becoming automatic.

4 MR. POLLOCK: A legal strike?

5 MR. MITCHELL: Yes.

6 MR. POLLOCK: A legal strike  
7 and there is no misbehaviour on the picket line -  
8 people cross freely if they want to cross  
9 and there is no problem?

10 MR. MITCHELL: Yes and this  
11 is one of our problems. As I see it, the ex  
12 parte injunction or the Judicature Act  
13 here in Ontario has been brought into our labour  
14 disputes automatically.

15 THE COMMISSIONER: No, no, no.

16 MR. POLLOCK: If you can show  
17 me those cases in which there hasn't been any  
18 evidence whatsoever of any kind of wrongful  
19 conduct in an injunction, I would be obliged  
20 to see that.

21 The second question is that  
22 you may object to the weight of the evidence.  
23 You may say I may want to cross-examine on it.  
24 But the desire to cross-examine on it and  
25 the reality of whether you can do anything  
26 to alter those facts, even if you cross-examine  
27 until you are blue in the face, is another  
28 question.

29 If there is, in fact, something  
30 wrong going on in the picket line, you can say



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1 "It didn't happen" and you are prepared to  
2 provide material in support of their  
3 opposition to the continuation of the injunction  
4 then you can do that and it is a question then  
5 of deciding between the two parties which is  
6 the one telling the truth.

7 But in every case before the  
8 court there is some evidence, there is an  
9 affidavit sworn by somebody saying that some  
10 of these acts occur.

11 THE COMMISSIONER: If you can  
12 find one case where the court has not had  
13 before it evidence coming within the limits  
14 of the section of the judicature act that  
15 you mention, then you will have established  
16 the fact that the law isn't being observed  
17 by the court, and I would like to have you  
18 show me that. There is no sense in saying,  
19 "I have heard this" or "I have heard that"  
20 and - have you ever looked at an affidavit  
21 on which any injunction was issued?

22 MR. MITCHELL: No, sir.

23 THE COMMISSIONER: Well, that  
24 says it, you see? I must say that I am  
25 astonished that you would have that sort  
26 of opinion of the courts that protect you  
27 from the people you want to be protected from -  
28 the thugs - with the police force and the courts.  
29 They maintain law and here you talk as if they  
30 were utterly irresponsible. Now that isn't a





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1 fact and I think you ought to be told that  
2 it isn't a fact. I know more about the courts  
3 than you do and I say there is nothing of  
4 that sort. It may be a false affidavit; I  
5 don't know, but it is there to justify the  
6 action of the court.

7 MR. MITCHELL: Then maybe  
8 there is a misunderstanding here, sir.

9 THE COMMISSIONER: Certainly,  
10 there is a misunderstanding, because the law  
11 specifies the conditions under which an  
12 injunction will be issued without hearing  
13 the other side and it says it can be one of  
14 three things; either an injury to a person,  
15 damage to property, or a threat to the breach  
16 of the peace.

17 MR. MITCHELL: Well, now, sir,  
18 you will agree that there could be a false  
19 affidavit?

20 THE COMMISSIONER: It might be.

21 MR. MITCHELL: Well, then,  
22 in this case, shouldn't there be another party  
23 to the thing - have the right to be heard if  
24 this is going to be the case?

25 THE COMMISSIONER: That may  
26 be and the only reason for it is that it is  
27 something that must be done in a hurry if  
28 there is what we can describe as irreparable  
29 loss or injury or possibly something else.  
30 There must be a critical situation. It may be



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1 that the facts are not true in all the features  
2 presented to the court. That may be. And  
3 I think that the mere procedure of having  
4 notice given to enable evidence to be given  
5 orderly, is one that won't be difficult to  
6 correct. But you see, you must remember this  
7 that once an injunction is obtained ex parte,  
8 which means only with one person, it lasts  
9 only for four days and it must be renewed  
10 at the end of that four days or it lapses.  
11 But we have case after case in which the  
12 union representative agrees to its becoming  
13 permanent in the sense that it will be carried  
14 on until there might be a trial of the action  
15 or the matter should be dropped.

16 MR. MITCHELL: What is the  
17 alternative to agreeing to that?

18 THE COMMISSIONER: This is  
19 the alternative: They can challenge it from  
20 the first instance. They can say "Your ex  
21 parte injunction was not based on the true  
22 facts and we want to examine that man and that  
23 affidavit and we want to show that that  
24 was a false statement". And I would say,  
25 if that were so, the tendency of the court  
26 would be not to allow a further extension  
27 at all, even though there was evidence to the  
28 evidence, there might be some further delay  
29 because then you ask for a trial of the matter  
30 you have got to come in with clean hands and







1 you've got to make a clean breast of what  
2 the facts are. And if you haven't done that,  
3 you have forfeited your right to enter that  
4 court. In no case that I know of, has that  
5 course been followed. They have not  
6 challenged the evidence that was submitted  
7 to the court. They have allowed it to go  
8 and accepted the extension of the injunction  
9 as based primarily on that. There might  
10 have been further affidavit, but it wasn't  
11 challenged. Now, I am stating the facts  
12 to you.

13 MR. MITCHELL: With particular  
14 reference to the affair in Peterborough, what  
15 was the alternative to the extension there  
16 that was offered the union?

17 THE COMMISSIONER: They could  
18 have challenged it with any evidence they  
19 had to present. They were notified and they  
20 appeared in court and they consented to the  
21 making of the interim injunction to continue  
22 more or less indefinitely, while the conditions  
23 remained there. Of course, that was open  
24 to anybody.

25 MR. POLLOCK: I think the  
26 point you are making is that you don't feel  
27 in the absence of any picketing, that they  
28 had to continue the injunction, barring all  
29 picketing, that they would have been happier  
30 to take four pickets per gate rather than none.



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1 But the point is that even if they had been  
2 able to challenge this, which they couldn't  
3 challenge, the fact that entrance and exit  
4 to the plant was blocked and there were at  
5 least a dozen people that would testify to  
6 that, that there were three affidavits  
7 filed in support on various occasions on which  
8 people were stopped and hands were pushed  
9 through the open window and fists shaken  
10 and roofs caved in, <sup>and</sup> / all these different  
11 things. Even if you could talk and supply  
12 evidence until you were blue in the face, you  
13 can't answer those.

14 MR. MITCHELL: You can't answer  
15 those but the fact is that the problem stems  
16 from these people that were being allowed  
17 to cross the picket line and the employer  
18 being allowed to hire strike breakers.

19 THE COMMISSIONER: You are  
20 probably right, it is true, and that is what  
21 I am trying to emphasize - that it isn't the  
22 injunction at all - it is the third party  
23 who came in and caused the trouble.

24 MR. POLLOCK: And it is the  
25 freedom that presently exists in that third  
26 party and the employer to enter into those  
27 kinds of relationships. You ought to say  
28 then, we ought to have a law to prevent  
29 people from taking those kinds of things. But  
30 until that law comes along, the injunction is





1 always going to enforce the existing law and  
2 if you want to use violence and use this other  
3 unsanctioned activity, you are always going  
4 to face the injunction. And I think you  
5 will agree, quite properly, in those circumstances,  
6 as far as the type of conduct is concerned, I  
7 think the injunction will issue when there  
8 is violence or physical obstruction or any  
9 of these other things that exist.

10 THE COMMISSIONER: You see,  
11 what you are seeking and legitimately seeking  
12 by your abstention from work is the closing  
13 down of that enterprise or that factory.  
14 When you have achieved that, you have achieved  
15 your object because you have stopped yourselves  
16 and you have stopped the employer.

17 Now, all you have to do is  
18 maintain that static condition to achieve  
19 your object, unless he can wait longer than  
20 you can.

21 MR. MITCHELL: That's what  
22 the economic battle is.

23 THE COMMISSIONER: That is true,  
24 then, if you can't wait, then the first question  
25 is why did you go into it.

26 MR. MITCHELL: I don't wish  
27 to create the impression here that doing away  
28 with the injunction, or subscribing that  
29 the injunction be dealt with differently, or  
30 anything like that, that we union people are







1       santioning even the beating up of a misguided  
2       or misled or misinformed scab.

3                   THE COMMISSIONER:    There is  
4       no such inference here, as far as we are  
5       concerned.

6                   MR. POLLOCK:    I think we have  
7       reached the stage in returning to our original  
8       submission of summary.

9                   MR. BOTT:    "In summary, we  
10      would advocate:

11     1.   That submissions made by management groups  
12         to date (and as published by the news  
13         media) or further repression of union  
14         activity would contribute considerably  
15         more to labour unrest and dissatisfaction  
16         than it would to harmonious Labour -  
17         Management relationships."

18                   I was referring to something  
19       and I think the first one - someone had someone  
20       in front of this Inquiry recommending a more  
21       militant use of injunctions.

22                   MR. POLLOCK:    It wouldn't surprise  
23       me; we have heard everything.

24                   MR. BOTT:    And the second -  
25       advocated the abolishment of strikes altogether.

26     "2.   That compulsory arbitration has never  
27         provided, and is unlikely to provide a  
28         satisfactory conclusion to labour disputes.  
29         In order for workers to establish for  
30         themselves fair wages and working conditions,





1 maintain their integrity and obtain their  
2 fair share of the growing prosperity of  
3 our nation, they must be permitted to  
4 withdraw their labour services, either  
5 individually or collectively, without  
6 fear of governmental intervention.

7 3. Management rights in technological change  
8 requires an up-dating in the collective  
9 bargaining concept. The government  
10 must evolve some method of making  
11 technological change primarily subject  
12 to a humane, not economic concept.

13 4. The agonizingly slow process of conciliation  
14 in its present form must be changed.

15 Conciliation should be voluntary,  
16 available earlier, and be brought to an  
17 efficient form which would allow the whole  
18 process to be completed in a matter of a  
19 few weeks, and not require months as it  
20 frequently now does. The conciliation  
21 process should be properly used to  
22 expedite and not prolong negotiations  
23 and the collective bargaining procedure.

24 5. Injunctions as presently used are a form  
25 of "union busting" and must be kept out  
26 of the field of labour disputes. We  
27 have many laws which should be and could  
28 be used to prevent violence and ensure  
29 peaceful picketing. Relative to the  
30 use of injunctions is the use of strike







1 breakers, which should also be prohibited.

2 We respectfully submit these  
3 proposals and views of the Kitchener-Waterloo  
4 and District Labour Council for your consideration."

5 I think we have fairly well  
6 argued every paragraph.

7 MR. POLLOCK: I think both of  
8 you has given a very good account of yourself  
9 in todays test.

10 THE COMMISSIONER: Gentlemen,  
11 I am much obliged to you. I hope there has  
12 been some enlightening on both sides.

13 MR. MITCHELL: I appreciate  
14 the fact, sir, that you have taken the time  
15 to hear our story out. I expected to be here  
16 and find a list of people behind me and I  
17 appreciate very much the fact that you had  
18 time to hear us.

19 THE COMMISSIONER: We reciprocate  
20 that, sir, that you were willing to come and  
21 tell us what your honest views were.

22 ---Luncheon Adjournment  
23  
24  
25  
26  
27  
28  
29  
30





1 ---On resuming.

2 MR. POLLOCK: We will now hear  
3 from Mr. Herman Turkstra. Mr. Turkstra?

4 MR. TURKSTRA: I appreciate  
5 the opportunity of being allowed to come  
6 forward.

7 MR. POLLOCK: I understand  
8 you are appearing in your private capacity  
9 and representing no one but yourself and  
10 probably thousands of like-minded individuals.

11 MR. TURKSTRA: I don't know  
12 about the last part, but the first part is  
13 true, sir.

14 I filed this brief in writing  
15 and these comments in writing, and since I  
16 have filed them, I have gone through them  
17 again and there are a couple of comments  
18 that I have which I would like to tie in, if  
19 I may.

20 Would you prefer that I read  
21 through this, or have you had the opportunity  
22 of reading through it?

23 THE COMMISSIONER: We have  
24 read it.

25 MR. POLLOCK: I think you  
26 can probably just tell of some of the basic  
27 ideas and talk around them, if you wish. We  
28 have had an opportunity of reading this this  
29 morning. Most of the points you raise are  
30 basic principles, I think, and perhaps you



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1 could just talk around them.

2 MR. TURKSTRA: In reading it  
3 through I saw there were a couple of places  
4 where it sounded as if I was advocating  
5 certain things when, in fact, what I was  
6 trying to do was to comment or merely to say  
7 that these things existed and that there  
8 were other points of view. There are two  
9 things I felt very strongly about in this  
10 brief and I really wanted to get before the  
11 Commission.

12 One was that I am convinced,  
13 from my own experience on this point, that many  
14 people who have to deal impartially with  
15 labour relations are considered impartial  
16 only because they are not parties to the  
17 dispute and they approach the problem - they  
18 are partial in their basic approach to the  
19 overall problem and that sufficient  
20 attention to defining what is impartial  
21 in labour relations has not really been  
22 given. I am speaking in that context.

23 The first example that comes  
24 to my mind is that of the arbitrator who is  
25 customarily a judge, and I am not satisfied  
26 in my own mind as a result of it that he  
27 has participated in a number of arbitrations,  
28 that most judges can approach the problem  
29 impartially because they come from a background,  
30 as does a lawyer, of protecting established







1 contractual rights and I am not really convinced  
2 that is the goal of labour arbitrations as  
3 such. I think that there is more to under-  
4 stand and more to protect in this area than  
5 simply approaching it from the point of view  
6 that this is a contract dispute that is to  
7 be resolved on the traditional basis of  
8 protecting vested contractual rights.

9           The other point I wanted to  
10 dwell on a bit was this question of strikes.  
11 On reading through my own notes here, it  
12 almost sounds as if I am saying there should  
13 be strikes and that I am advocating it is  
14 a desirable thing. I would like to amplify  
15 that only by saying that - that I look upon  
16 a strike much as a headache and a headache  
17 could be a symptom of just a little tension  
18 tumour. Now I get rid of my headache by taking  
19 an asperin or taking some kind of nerve or  
20 pain killer but it doesn't cure the illness.  
21 I get a little concerned sometimes when people  
22 say that strikes are bad and should be eliminated.  
23 I think that a superfluous comment and the  
24 strike in any given circumstances is a symptom  
25 of breakdown in communications in a particular  
26 area, generally speaking. But to simply say  
27 that the strike has become outmoded as an  
28 element of labour relations, I am convinced  
29 is not true, that it still serves a useful  
30 purpose and when strikes become outmoded, they



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1 will stop without any legislation and without  
2 any coercion on the part of government and  
3 when they have served a useful purpose in  
4 labour relations they will come to an end  
5 with their own momentum running out.

6 I suppose there are obvious  
7 exceptions to this, but I am speaking generally.

8 THE COMMISSIONER: Well, that  
9 would involve some new method to bring more  
10 agreement more quickly.

11 MR. TURKSTRA: Yes, and I think  
12 that involves a little more acknowledgement  
13 of the natural tendency on the part of the  
14 people who are involved in production as workers  
15 who want to control their own working conditions  
16 a bit. And that goes back to my point or  
17 a question of your approach. I don't think  
18 it is unnatural to expect people who are in  
19 production work or not to be interested in  
20 how their own job is progressing and I think  
21 it is the frustration of that desire to want  
22 to have something to say about your own job.  
23 That is one factor in this complex problem.

24 I would think that in terms of  
25 quick settlements, that dispute is perhaps not  
26 the way to put it. I think the start of the  
27 answer lies in heading off disputes by giving  
28 greater recognition to the interest and ability  
29 of the people who are actually working to solve  
30 some of their own problems.





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1 THE COMMISSIONER: I think that  
2 is the direction, undoubtedly.

3 MR. TURKSTRA: The best example  
4 I can think of is the longshoreman on the west  
5 coast of the United States where their hiring  
6 procedures were worked out by the men themselves.  
7 They are entirely happy with it and it solved  
8 the problem of automation substantially without  
9 the necessity of strike action. The men are  
10 proud of it, as I understand, and the thing  
11 works.

12 THE COMMISSIONER: What are  
13 the essential factors that brought that about?

14 MR. TURKSTRA: I think it  
15 involves, I suppose, competent leadership  
16 on the part of the men as a start.

17 THE COMMISSIONER: On both sides.

18 MR. TURKSTRA: Yes, on both  
19 sides and certainly a willingness on the part  
20 of management to say we are prepared to listen  
21 with real interest to how you say this enterprise  
22 should function.

23 THE COMMISSIONER: This is  
24 a fundamentally changed attitude.

25 MR. TURKSTRA: Yes, and I  
26 think that is the real point of what I am  
27 saying.

28 THE COMMISSIONER: What is  
29 the attitude that should be taken?

30 MR. TURKSTRA: I think the





1 attitude is this: That management should not  
2 expect to have the complete control of the  
3 productive enterprise.

4 THE COMMISSIONER: Why?

5 MR. TURKSTRA: Because I think  
6 eventually it produces a breakdown between the  
7 men who are working there and their natural  
8 tendency to want to participate in the direction  
9 of their own work.

10 THE COMMISSIONER: Well, it  
11 is a measure of significance of desire against  
12 something that is entrenched in another way

13 MR. TURKSTRA: That is right.

14 THE COMMISSIONER: How far  
15 should desire influence its accomplishment  
16 or attainment? A mere desire, I think you'd  
17 better fortify it or sort of support it  
18 intellectually. What are your reasons? We've  
19 got to get that reason for the change which  
20 we say has taken place in society - in western  
21 society - and industrial society. What are  
22 those fundamental changes?

23 MR. TURKSTRA: Well, the first,  
24 obviously, is the intellectual level of the  
25 people who are working on production work.  
26 I don't want to say their intellectual level  
27 but their educational level. Their exposure  
28 to a broad range of knowledge /<sup>is</sup> increasing,  
29 if nothing else than television and the  
30 newspapers and the field of journalism. The skills



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1 they have when they reach the job site are  
2 increasing by way of technical training. The  
3 technical training being given to the people  
4 in this city for the purpose of training them  
5 to work in production work now includes in  
6 its curriculum, arts, history and literature.

7 THE COMMISSIDNER: Those are  
8 changes with relation to the working men, but  
9 what about changes with relation to the employers?

10 MR. TURKSTRA: That would  
11 support a change in attitude sir?

12 THE COMMISSIONER: That would  
13 indicate the conditions that should be followed  
14 by some modification of attitude.

15 MR. TURKSTRA: I don't observe  
16 any tendency other than what is forced upon  
17 them.

18 THE COMMISSIONER: It seems  
19 to me that what industrialism is evolving  
20 into today is in the nature of social  
21 instruments. They are serving social functions.  
22 Today we are building cities by reason of a  
23 shape and kind and pattern of those necessary  
24 consequences of technology. We are building  
25 suburbs and we couldn't have suburbs under  
26 the old regime of the horse and carriage, but  
27 we have an internal combustion engine now  
28 and we spread our city over miles where formerly  
29 it was crowded and limited. Those are the  
30 changes I think have come because with these





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1 huge combinations of capital and labour, our  
2 society has been built up on those foundations  
3 and we put it in the hands of <sup>a</sup> minority to  
4 disrupt that standard of living, you might  
5 call it, or the customary modes of life in  
6 the community. Therefore, the individualism  
7 of two centuries ago, has been converted into  
8 the community evils. And those who take  
9 part in their direction as employers are  
10 really acting in one sense - in a social sense -  
11 as directors of social functionism. They  
12 are serving the people with what the present  
13 age of life - I won't say demands, but it  
14 requires for the maintenance of its level  
15 and improvement of its level.

16 MR. TURKSTRA: I am not sure  
17 if I respectfully agree that that is, in  
18 fact, the approach that the employers take.

19 THE COMMISSIONER: I am quite  
20 sure it isn't, but I am talking about what  
21 changes in attitude you think might be  
22 dictated by the fundamental changes in social  
23 conditions.

24 MR. TURKSTRA: To that I would  
25 like to add only that I don't think the entire  
26 responsibility for filling that social goal  
27 should be in the hands of the employee because  
28 it inevitably involves a frustration of the  
29 creative element in the working force itself.

30 THE COMMISSIONER: Well that





1 means that both parties are working in a certain  
2 interest of the community.

3 MR. TURKSTRA: Or they should,  
4 sir.

5 THE COMMISSIONER: Why if  
6 you take that view then they are. Instead  
7 of being remunerated by the public in the  
8 ordinary way, their remuneration is their  
9 profit and they have been given a free scope  
10 of action, a reasonably free scope of action  
11 so that the more intelligence and efficiency  
12 they bring, the greater their reward will be  
13 for being the trustees, you might say, for  
14 the welfare of their community.

15 Now, I am just suggesting that  
16 as a possible intellectual view to justify  
17 a change in attitude.

18 MR. TURKSTRA: I must confess  
19 I had approached it less rationalizing this  
20 philosophically than from the point of view  
21 of what might actually be expected on the  
22 job site, in terms of specific situations.  
23 To get back to that point, I think on the job  
24 site, without considering the philosophical  
25 aspect of it, I think there is no doubt a  
26 trend on the part of the people who are involved  
27 in production to want the satisfaction of  
28 having some part in developing the rationality  
29 of their own job.

30 THE COMMISSIONER: Yes, but I





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1 would like to have some justification for  
2 acceding to that job. Because you know  
3 we can't get things simply because we desire  
4 them.

5 MR. TURKSTRA: Well, sir, I  
6 only put it forward as being an existing  
7 fact that is giving rise to troubles. And  
8 if you want to eliminate the trouble, then  
9 part of that is to acknowledge this desire.  
10 Now, whether it is legitimate or illegitimate  
11 from a philosophical point of view, I am not  
12 really, seriously arguing.

13 MR. POLLOCK: I am not quite  
14 sure why you brought up the west coast long-  
15 shoremen's settlement unless as an example  
16 of labour and management cooperation, because  
17 that certainly wasn't a voluntary arrangement  
18 in the sense that management didn't all of  
19 a sudden decided to become extremely altruistic  
20 in its approach. It was faced with the union  
21 on the one hand saying "We can effectively  
22 tie you up for six months and cost you so many  
23 millions of dollars, you may as well settle  
24 with us and we will negotiate this thing  
25 and we will all be better off" and so,  
26 consequently, they negotiated a technological  
27 change, a reduction in the size of  
28 the work crew by - I don't know whether in  
29 those days it was containerization or mechanized  
30 dollies or something - which had the effect



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1 of increasing the business of the port, it's  
2 open and automation, it's automation that  
3 hasn't required a reduction at all of the  
4 work force.. The industry has grown as a  
5 result of it and they can get ships in and  
6 out faster and more ships are coming in so  
7 there is a very happy automation factor there.

8 MR. TURKSTRA: I set it out,  
9 Mr. Pollock, as an example for this reason.  
10 I understand that the men themselves, who are  
11 actually doing the work, are proud of this  
12 system and as such an element of friction  
13 has been removed. Now whether it was forced  
14 down the throats of the employers - I am saying  
15 they were given an opportunity to participate  
16 in the design of their own job and they  
17 rose to the occasion and it is now a matter  
18 of pride for them.

19 I would say this: that we  
20 recognize that a man who sits behind the desk  
21 on the top floor of an industrial enterprise,  
22 legitimately can expect to find satisfaction  
23 from his job as well as income and I merely  
24 say that for the production worker, there  
25 is a growing tendency for them to want to  
26 find satisfaction from the job as well and  
27 that part of this satisfaction comes from  
28 some feeling of having to have some feeling  
29 that you are not just a pawn and apart from  
30 any philosophical implications we recognize





1 it on the part of management as being a legitimate  
2 goal for management and I think it should be  
3 recognized as a legitimate goal for labour  
4 and that if it is recognized, it starts to  
5 remove an element of friction and a potential  
6 source of hostility.

7 THE COMMISSIONER: I suppose  
8 though, the employer says "Well what is the  
9 justification for your friction? You have  
10 your job and I have mine, why not leave it  
11 at that?".

12 MR. TURKSTRA: Well that, I  
13 think is attempting to get around the facts.

14 THE COMMISSIONER: Well, it  
15 is really based upon assumptions. Here is  
16 your private property - or his private property  
17 remains private. It's his and he maintains  
18 it as private. As long as we maintain the  
19 assumptions ---

20 MR. TURKSTRA: Well, sir, my  
21 whole point is that if you are going to study  
22 industrial relations, those same philosophical  
23 assumptions have to be looked at very carefully.

24 THE COMMISSIONER: Well, that  
25 is exactly what I am suggesting, but you say  
26 you read it in another way, that is all. I  
27 think you ought to change those basic attitudes  
28 and change some of your assumptions.

29 MR. TURKSTRA: Perhaps. I know  
30 that my comment is that they have to be very





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1 carefully looked at and in as objective a  
2 fashion as possible. That they have been  
3 around for 300 years doesn't necessarily  
4 mean anything. Some of the old trends of  
5 characterizing problems don't work any more.  
6 I have tried to point this out, that in my  
7 opinion, the man who has worked for one firm  
8 for fifteen years has almost a property  
9 right in that enterprise.

10 THE COMMISSIONER: There is  
11 no doubt that it is being suggested.

12 MR. TURKSTRA: This is my  
13 reaction from talking to people who have  
14 been involved in this kind of situation.  
15 They have given something of themselves  
16 into that business if they are a good employee  
17 and I don't think that we can necessarily  
18 always continue to say "Well, the only capital  
19 that is involved in that business is the  
20 dollars or the land or the building" because....

21  
22 THE COMMISSIONER: Do you  
23 think that has been divested by another view?  
24 That here you are involved in an essential  
25 function and those are the functions that  
26 are serving a community which enables you  
27 to perform them and enables you to live in  
28 security.

29 MR. TURKSTRA: I suppose that  
30 would apply also in terms of a lawyer.



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1 THE COMMISSIONER: Certainly.

2 You are engaged in the maintenance of law  
3 and the removal of misunderstandings and  
4 friction.

5 MR. TURKSTRA: And I have been  
6 given a large part of that by the community  
7 itself in terms of education and educational  
8 facilities.

9 THE COMMISSIONER: Yes, we  
10 are the beneficiaries.

11 MR. TURKSTRA: That concept,  
12 sir, I wouldn't like to comment on it.

13 MR. POLLOCK: Well, the position  
14 that you are advocating then, is the one of  
15 greater responsibility for cooperative  
16 enterprise, in the sense that although you  
17 are not advancing it for that, it rings or  
18 sounds very familiar to the anti-union approach  
19 that management take to looking after his  
20 employees, "We are one happy family. What  
21 do we need those outsiders for? We will  
22 have periodic meetings and we will have a  
23 profit-sharing plan and we will discuss these  
24 things and every month we will determine  
25 whether we should do this or do something else"..  
26

27 MR. TURKSTRA: If it rings  
28 like that, then it doesn't ring true, because  
29 I think I have tried to make a point here that  
30 as management is organized and totally organized  
to govern the production workers in its plant, so





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1 I think there is legitimate reason for a  
2 separate organization to attempt to organize  
3 the production force to exercise a contrary  
4 or balancing effect and I am certainly not  
5 coming out in favour of this grand family  
6 idea. What I am saying is that in order  
7 to prevent those balancing forces from coming  
8 into open conflict that one of the elements  
9 that will prevent that conflict from arising  
10 is a recognition of the ability and  
11 desire on the part of production workers to  
12 participate to some extent in the direction  
13 of their own work.

14 MR. POLLOCK: But the problem  
15 that you face in that situation is that  
16 management has - well, maybe it has been  
17 mortally wounded by the fact that the  
18 employees haven't been able to communicate  
19 and haven't been able to bridge the gap so  
20 they have joined this union and it is the  
21 union now that is communicating with management  
22 and they say to their employees, if that is  
23 your choice, you want to communicate through  
24 the union, then the union and I will fight  
25 it out and if you want to have any of these  
26 other responsibilities, you should have come  
27 to see me before. Now that is an attitude  
28 that exists.

29 MR. TURKSTRA: And I think  
30 that is obviously the first attitude that arises



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1 after you become involved with the union. I  
2 don't think that attitude can persist over  
3 a period of years.

4 MR. POLLOCK: Well, it happens  
5 in many cases and some of the unions say - "If  
6 that is the kind of game you want to play" -  
7 and then management says - "All right, we  
8 are two opposing camps. You get what you  
9 can get and I'll give what I have to". That  
10 is not an unrealistic picture of some of the  
11 bargaining situations that exist in our  
12 society.

13 MR. TURKSTRA: Not at all. My  
14 point is that it is true that that system  
15 exists and in terms of ameliorating that  
16 situation - my only suggestion is that you  
17 have to just start and say "Well, that may  
18 not necessarily be true; let's have a look  
19 at what the union is capable of communicating  
20 to us". And I feel that once that step  
21 has been taken, once there is some basic  
22 recognition of the ability of the production  
23 workers organizing the unions to produce useful  
24 information, then I think you start to get  
25 over this rigid bargaining position that  
26 you have. I don't like that rigid bargaining  
27 position and I think that is unfortunate. In  
28 terms of society, it hurts society and it  
29 hurts the parties involved.

30 MR. POLLOCK: Well, we have



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1 some examples of the happier situation, I suppose,  
2 and the most current one that comes to my  
3 mind is the Domtar relationship where they  
4 have a continuing discussion about plant  
5 conditions and negotiation - that is open  
6 negotiation - of contract problems and  
7 discussions of matters at an early stage  
8 before they become a cancer and spread, at  
9 a very early stage which, in some cases  
10 works, but only if the parties want it  
11 to work. Now, how can you compel them  
12 to want it to work? How do you get over  
13 these rigid formulae that say "If the union  
14 is there to demand and take and the employer  
15 is there to resist"?

16 MR. TURKSTRA: Mr. Pollock,  
17 my only answer there is that somewhere,  
18 someone along the line has to form a  
19 philosophy to get over that and to express  
20 it in the open where it requires some status  
21 and it becomes in the eyes of at least some  
22 people, the right way to approach a problem.  
23 Eventually, that philosophy has to start  
24 coming home to people who are involved in  
25 that situation, because it has been stated  
26 in a forceful way. That is why a commission  
27 such as this is in a position to examine  
28 that very problem and - for example, raising  
29 as a suggestion - that a change in this  
30 attitude is desirable. That, in itself, is





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1 a step towards getting away from the situation.  
2 I don't think you can legislate people to  
3 change but I think you can, by examining  
4 the problem and stating what is desirable,  
5 and I think you can start to effect a change  
6 in public opinion on it.

7 MR. POLLOCK: To develop  
8 this type of attitude, you would have to  
9 develop independence and individual thought  
10 and action, which seems, at least at a time  
11 of strike, to be detrimental to the general  
12 workers and union interest. You want  
13 people to be able to think about these things  
14 and to be concerned about the plant as an  
15 organism and that type of relation can only  
16 flourish when you have individual thinking  
17 as individuals and not you, as the President  
18 of the union, telling me, as the membership,  
19 what ought to be done. I am not suggesting  
20 that happens but when it comes to a question  
21 of solidarity, you have to join together.  
22 If we are going to beat the other chap in  
23 our organized economic warfare, we have to  
24 stick together and anybody who suggests  
25 any halfway measure of concession is a  
26 traitor and God forbid, if he goes back  
27 to work, he is a scab or something worse.  
28 So that you can't have the intellectual  
29 freedom of independent thought in this  
30 type of atmosphere any moment you are going to war.



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1 MR. TURKSTRA: You might not  
2 have it in a battle but you certainly have  
3 it all through the rest of the period of  
4 relationship. I think I can perhaps get  
5 my idea concrete. If this Commission were  
6 to come out and say that we recognize that  
7 it is the inalienable right of management  
8 to be completely responsible for the organization  
9 of its capital ownership, that is going to  
10 influence the bargaining attitudes and the  
11 attitude of the day-to-day attitude of  
12 management, labour in this province.

13 If, on the other hand, the  
14 commission explores that basic concept and  
15 is prepared to come to an acknowledgement  
16 that there are circumstances in which a  
17 great deal of benefit can flow from recognition  
18 of the interest and the natural tendency on  
19 the part of the working force to be involved  
20 in the decisions governing the operation of  
21 the enterprise, then that is going to have  
22 an influence on how people think and approach  
23 the problem.

24 THE COMMISSIONER: The only  
25 criticism I would have of that is that  
26 management would sit back and say "Suppose  
27 you do desire this, what is that to me? By what  
28 justification and reason can you say that  
29 you have a right to modify my superintendency  
30 or my own property?".





1 MR. TURKSTRA: You can approach  
2 it two ways. Obviously, you can approach it  
3 from the philosophical point of view, but  
4 practically, the answer to that is very  
5 simple. We have to get along.

6 THE COMMISSIONER: But that  
7 is his problem. He says, "I'm prepared to  
8 get along and I don't mind this friction."  
9 It is a good idea sometimes to have friction.

10 MR. TURKSTRA: I will agree  
11 with that, so long as you have techniques  
12 for dissolving it.

13 THE COMMISSIONER: Well  
14 his technique is very clear. He says "I am  
15 willing to put my strength against yours  
16 in the nature of enduring things".

17 MR. TURKSTRA: Well, the  
18 practical answer, is it attractive to  
19 management? I think it is attractive now  
20 if you compare the east and the west coast  
21 of the longshoremen. I think the west coast  
22 employers are a whole lot happier with their  
23 situation than on the east coast because  
24 it has proved to be a better way of running  
25 the enterprise. Now these ideas, once  
26 management gets hold of a particular approach,  
27 the same as the union, they get locked down  
28 and they don't change easily.

29 THE COMMISSIONER: But, when  
30 you demonstrated it is for their interest,







1 I am sure they recognize it.

2 MR. TURKSTRA: My point is  
3 that a commission such as this is in a  
4 position to look at those basic ideas and  
5 to challenge them in the open and perhaps  
6 to express some approval other than the  
7 traditional point of looking at it with a  
8 view that perhaps one director on a board  
9 of ten directors is going to look at that  
10 and say "Well, I wonder where this is going  
11 to take it and I wonder if my ideas aren't  
12 just a bit too rigid on it".

13 THE COMMISSIONER: That is  
14 true. You have to consider whether it has  
15 sufficient basic strength for support. That  
16 is what we have been trying to wheedle out  
17 of those who have been good enough to come  
18 before us. What ideas, what do you think  
19 of the ideas suggested and what ideas have  
20 you of your own to establish what you say  
21 is the philosophy of these things?

22 MR. TURKSTRA: My only evidence,  
23 sir, is talking to a relatively large number  
24 of people who have been involved on the job  
25 and being continuously impressed with the  
26 fact that they have a frustrated interest  
27 in trying to see that the operation runs  
28 well. I don't think ----

29 THE COMMISSIONER: But if  
30 you feel that the person opposite you is most



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1 unreasonable and he is asking things that are  
2 ridiculous, you are going to refuse him.  
3 What is going to change your attitude toward  
4 the shape in which you see his action expressed?  
5 I have always found that when you present  
6 a man with a proposition which he cannot  
7 repudiate, you have the strongest instrument  
8 for changing his mind.

9 MR. TURKSTRA: I would have  
10 thought it was the other way around, where  
11 you back him in a corner where he can't  
12 repudiate, he will walk on and never change  
13 his mind.

14 THE COMMISSIONER: Well,  
15 these conceptions of a man, if he is helpless  
16 in his corner of the ring, I would change  
17 the scene from a fighting ring into an open  
18 plain where he felt the winds agreeable  
19 for reconciliation and things of that sort.

20 MR. TURKSTRA: Well, sir,  
21 you have asked me "How can you get any  
22 strength in these ideas" and the only answer  
23 I can give you back again is that the strength  
24 comes about by being explored publicly  
25 and being given some approval on a public  
26 basis by someone who counts. I would suggest  
27 that is one way and, of course, the other  
28 way is that you say "All right, the unions  
29 have got a responsibility to become reasonable  
30 in their approach and practical in their demands



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1 and present a face that management just  
2 can't turn away. That is very easy to  
3 say and yet I wonder what would happen  
4 if all negotiating committees immediately  
5 start following that tactic.

6 THE COMMISSIONER: I don't  
7 think the demeanour of a person is a powerful  
8 idea.

9 MR. TURKSTRA: I think you  
10 have exhausted my mind on that point, sir.

11 MR. POLLOCK: There is certainly  
12 a change coming about when management's point  
13 of view, I think, as we witness the disappearance  
14 of the sole proprietorship of the family  
15 company where it meant that if you were going  
16 to get more, it was going to come out of my  
17 pocket. And you've got a professional group  
18 of managers dealing with a professional  
19 group of negotiators in the sense of union  
20 people and each trying to get the best for  
21 their group and managers for the shareholders  
22 and the union people for the members, so  
23 that you don't run into the hard, fast,  
24 unmoving emotionalism that was prevalent  
25 with us in the days of Henry Ford.

26 MR. TURKSTRA: This is not  
27 quite as open as that, because these  
28 professional managers are much more capable  
29 of being completely impersonal about production  
30 workers than was the sole proprietor on the





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1 average. I don't want to talk about Uncle Tomism,  
2 because I'm glad that's all done with,  
3 but there is no question in my mind that the  
4 professional administrator who moves around  
5 from place to place and job to job and company  
6 to company, is capable of being colder and  
7 more calculating and harder with his production  
8 staff than the old fashioned emotional guy  
9 who was losing his dough right out of his  
10 pocket.

11 MR. POLLOCK: Well, I think  
12 you said in your brief, it is a cipher,  
13 if your happiness means it is going to be  
14 cheaper to operate this plant with you  
15 being happy, we will pipe in the music  
16 but if it is just a question of you loving  
17 me a bit more, we will leave the music out.

18 MR. TURKSTRA: I don't think  
19 I have ever seen anything quite as cold  
20 as the management consultants when they  
21 start talking about rearranging the production  
22 staff along with the machines in the plant  
23 when they cut down 3  $\frac{1}{2}$  per cent. I have  
24 been in on some of those sessions and it is  
25 quite chilling and I would rather deal with  
26 the old-fashioned, sole proprietor.

27 MR. POLLOCK: He was the  
28 sole proprietor and he had a soul.

29 MR. TURKSTRA: Of one kind  
30 or another.





1 THE COMMISSIONER: Don't forget  
2 that today all real business questions of  
3 magnitude are -- it is not the business of  
4 men, but the business of a thousand people  
5 who have been brought together under the  
6 device of the corporation with limited  
7 liability. What does that consist of? It  
8 is simply a huge amount of money which is  
9 being operated by management. Now, it is  
10 the transition of you, from the individual  
11 enterprise as distinguished from a private  
12 enterprise. It is very easy, it seems to  
13 me, to be one of accepting the fact that  
14 here I am not acting for any individual,  
15 I am in a community process here. There  
16 are a thousand shareholders investing in  
17 this and there are a thousand workers and  
18 what are we doing? We are doing something  
19 that is playing today a most important part  
20 of the maintenance of our own standards of  
21 the twentieth century. So the very fact  
22 that the introduction of a limited liability  
23 company in which you can amass money to be  
24 put to work is a fundamental change and you  
25 couldn't do that until the middle of the  
26 nineteenth century.

27 MR. TURKSTRA: I must confess  
28 that I like the second description of this  
29 operation as a partnership between thousands  
30 of people with the money and the thousands of





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1 people who are working in it.

2 THE COMMISSIONER: They are  
3 working together, but what is their object?  
4 They are engaged in a tremendous function.

5 MR. TURKSTRA: I would think,  
6 sir, that perhaps there isn't just one object,  
7 there are many objects and at different levels.

8 THE COMMISSIONER: I know,  
9 but those flow from the performance of the  
10 objective.

11 MR. POLLOCK: It is nice to  
12 be a partner for profits but not for losses,  
13 I have heard that statement too.

14 MR. TURKSTRA: I wonder how  
15 much a man's thinking is conditioned by  
16 the fact that we have been on the upgrade  
17 since my experience. I don't know what  
18 my submission would be if I'd gone through  
19 the depression, but I can't go beyond my  
20 own experience.

21 THE COMMISSIONER: Well, I  
22 think all that needs is a little keener  
23 development of your imagination, accompanied  
24 by an imaginative emotionalism.

25 MR. TURKSTRA: If I do that,  
26 sir, I don't have any trouble imagining that  
27 men did not suffer as much loss from the  
28 depression as people with capital invested  
29 in the company suffered. Mr. Pollock is  
30 talking about the loss of profit and I am





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1 talking about loss of capital.

2 MR. POLLOCK: They had  
3 infinitely more ability in what they possessed  
4 than the capitalists. The capitalist loses  
5 it and if the plant goes broke he's got  
6 nothing left and the fellow that is out of a job  
7 is out of a job temporarily until he can  
8 find another job. Once you lose your money,  
9 that is all, unless, of course, you die or  
10 get sick.

11 MR. TURKSTRA: Mr. Pollock, if  
12 you see a man who has lost his job when he  
13 is past the point of being actively retrained  
14 for another job, you wouldn't say that because  
15 it isn't so. I have seen too many people  
16 who are desperate because they are locked  
17 into a job and they can't go anywhere else  
18 and if they lose that job, they may be less  
19 mobile than the man who has put 10 per cent  
20 of his capital into the business.

21 MR. POLLOCK: But you are  
22 taking the example of someone who has  
23 reached the end of his returnable economic  
24 life. You have to contrast that against  
25 the harness making factory. Once they  
26 don't need any more harnesses, his capital,  
27 although he could sell his shares once for  
28 a considerable amount of money, he is  
29 locked into that too. It is a question that  
30 the only variable factor would be the change



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1 of the economic situation. If a young fellow  
2 is in a viable plant and the economic situation  
3 changes and there is a depression, then the  
4 viable plant falls down and the people who  
5 invested their money - that disappears. The  
6 young fellow, as long as he's got his health  
7 he can move over. I am not saying that it  
8 is a happy circumstance in anybody's case.  
9 I am saying there is more that ties the  
10 capitalist - if you want to use that term -  
11 to the plant, than the employee.

12 THE COMMISSIONER: I remember  
13 many years ago Arthur Balfour said "Capital  
14 is viscous and labour is not". You aren't  
15 taking industry to labour to people where  
16 they live, rather than taking people to where  
17 the plant is operating.

18 MR. TURKSTRA: Could I perhaps  
19 comment on one other thing and that is, the  
20 organization of the union. I was thinking,  
21 as I read through this, that I remember very  
22 clearly, sir, a situation where the officers  
23 and the international representative of the  
24 local of a union in this city, attended at a  
25 meeting of men who were out on a wildcat  
26 strike and pleaded with them to return because  
27 it was going to involve a breach of the  
28 contract bargaining agreement. I don't know  
29 if this problem was accurately expressed in  
30 the paper, but the question of whether or not



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1 a union is operated like a corporation, I  
2 can't stress too much, sir, that in my  
3 experience, and in my opinion, that is not  
4 so. If you have to attempt to balance  
5 whether the direction comes from the top  
6 or the bottom, I am convinced it comes from  
7 the bottom as opposed to a corporation  
8 where, in many cases, management is largely  
9 self-sustaining.

10 THE COMMISSIONER: What do  
11 you mean it comes from the bottom?

12 MR. TURKSTRA: The activities  
13 of the men are governed by way of orders  
14 from the officers of the union. In other  
15 words, a corporation, generally speaking,  
16 is run by clear-cut direction from the top  
17 and, on the other hand, the union runs,  
18 generally speaking, as a result of the  
19 consensus of the people at the bottom and  
20 don't think that they have the same sort  
21 of controls the corporation has of its  
22 overall activities.

23 MR. POLLOCK: Just the share-  
24 holders of the union are a little more actively  
25 involved and interested in the activities of  
26 the union than are the shareholders of the  
27 company, as long as the directors keep the  
28 dividends coming.

29 MR. TURKSTRA: Well, the  
30 director of the Federal Bureau, the American





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1 institute - that is the mediation board, the  
2 chief mediator of the United States - came  
3 to Osgoode Hall and pointed out that one of  
4 the things he saw in the future that was  
5 going to cause some problems was the  
6 inability of negotiating committees to sell  
7 the packages that they have negotiated to  
8 their own unions or to sign a contract and  
9 then get booted out.

10 THE COMMISSIONER: There is  
11 no doubt that is a very serious question.

12 MR. TURKSTRA: Yes, it is  
13 and addressed to this point of the manner  
14 in which union themselves function, I think  
15 without saying that is a good idea, I merely  
16 point out that it proves to my mind that  
17 unions don't function the same as corporations.

18 THE COMMISSIONER: Well, you  
19 don't have the resolutions of the directors  
20 submitted to shareholders but you do have  
21 instead of them, that any settlement must be  
22 approved first.

23 MR. TURKSTRA: I think my  
24 point is a little different, sir. The  
25 executive committee of a large industry  
26 cannot decide whether the new plant - and  
27 if 4000 of the production workers of the  
28 plant and 1000 supervisory staff think it  
29 is a crazy idea, it is still going to be  
30 built. Whereas, on the other hand, if



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1 the executive committee of a local thinks  
2 there should be no walkout, then it may  
3 still be done and it may be done by a small  
4 portion of the people and I am concerned  
5 with altering the responsibility as  
6 it presently stands with regard to litigation  
7 involving unions.

8 THE COMMISSIONER: Why do  
9 you think some of these agreements are  
10 entered into subject to approval or are  
11 rejected? What are the factors or influences  
12 that would lead a body of men to that?

13 MR. TURKSTRA: I have seen  
14 it vary from different things. I have seen  
15 trouble brew, sir, simply because working  
16 conditions in one specific part of the plant  
17 seems to have been disregarded by the  
18 negotiating committee. I have seen trouble  
19 brew because one group of employees felt  
20 they were poorly treated at the last  
21 bargaining table and they expected to have  
22 that redressed at the next bargaining table  
23 and then find nothing specifically for them  
24 when they got there.

25 THE COMMISSIONER: Did that  
26 influence the majority in their favour?

27 MR. TURKSTRA: No, but I  
28 think it is the start of trouble.

29 MR. POLLOCK: The start  
30 of factionalism in the union.



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1 MR. TURKSTRA: Yes. And I  
2 think it doesn't take long in any group  
3 of excited people for an idea to gain momentum.

4 THE COMMISSIONER: What  
5 about this sweetheart agreement - wasn't that  
6 what they called it - where they didn't  
7 have good faith in negotiation.

8 MR. TURKSTRA: I don't think  
9 that is as common around this city now, at  
10 least in large industry. Although sometimes  
11 I am sure the employees get that idea and  
12 I pointed out in my brief that there is  
13 one group that was positive that had taken  
14 place and yet I am personally satisfied  
15 it had not.

16 MR. POLLOCK: Some suggest  
17 that this type of approbation-reprobation  
18 in bargaining is becoming a very successful  
19 bargaining tool.

20 MR. TURKSTRA: It is easy  
21 to say that because it succeeds.

22 MR. POLLOCK: Because I  
23 know of some negotiation committees who,  
24 in all good faith went to the union meeting  
25 and said to them "This is the final offer.  
26 If you don't accept this, it is strike" and  
27 they said "We are not going to accept it"  
28 and they said "Well, it means strike" and no  
29 sooner had they said no than the employer  
30 said five cents more and that defeated the whole





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1 thing and that starts the whole thing rolling  
2 along. It is the next plateau and up to  
3 the \$64 thousand dollars, by steps.

4 MR. TURKSTRA: I think it is  
5 only an effective negotiating tool in a  
6 very full economy when there is pressure on  
7 the employer to produce without hiatus and  
8 if you get off work tomorrow you can pick  
9 up three or four week's part-time work  
10 somewhere else to tide you through a strike  
11 and you don't really care, when there is  
12 real under-employment rather than over-employment  
13 that it will happen. I don't think, in  
14 the long term, however that it is an effective  
15 bargaining tool because it destroys the  
16 confidence of the bargaining power of the  
17 negotiating committee with the employer in  
18 the long run because he is not going to go  
19 to the last foot or to the last inch with  
20 this committee because he knows he has to  
21 keep that last inch back for two weeks  
22 from now when the membership has turned  
23 down his first proposal.

24 MR. POLLOCK: Of course  
25 the problem is that there never is a last  
26 inch that you can say this is the last  
27 inch. You can say that was the last inch  
28 but you can't say that this is the last inch.

29 MR. TURKSTRA: I think  
30 most large industrial undertakings have a



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1 pretty clear idea where they are going in  
2 negotiations and as to how far they are  
3 prepared to go and I would think with that  
4 type of atmosphere being around, they  
5 would hesitate to go, in what amounted to  
6 the last stages, to their last limit.

7 MR. POLLOCK: Too early.

8 MR. TURKSTRA: Yes, too  
9 early.

10 MR. POLLOCK: You mentioned  
11 something about altering the responsibility  
12 of unions and litigation. I assume you  
13 meant making them suable.

14 MR. TURKSTRA: Yes.

15 MR. POLLOCK: It has been  
16 suggested that this would assist the union  
17 leadership in controlling the elements of  
18 membership in the sense that they can say  
19 to them "Don't take any wildcat action and  
20 don't do any illegal acts because, not only  
21 will you be sued individually, but things  
22 will happen to you like happened in Gaspé  
23 Copper".

24 MR. TURKSTRA: I don't  
25 believe that for an instant. As I say, I  
26 sat on a board where the officers of the  
27 union pleaded with the men to go back to  
28 work because they were going to involve  
29 an award for damages under the collective  
30 bargaining agreement and that case is so typical,



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1 as far as I am concerned, because the reasons  
2 for the wildcat were purely and simply the  
3 inability of - and perhaps I won't put it  
4 that way. Perhaps it's being unfair to  
5 the supervisor involved. But I look upon  
6 it as a personality clash between a man  
7 who is responsible for directing these  
8 employees and a number of the employees.  
9 It was unreasonable and irrational and  
10 it got to the point where the foreman said  
11 "I will talk to you if you come back" and  
12 the men said "We'll come back after you  
13 talk to us". It is sort of like "You stop  
14 bombing Hanoi and we'll talk to you" and  
15 someone else saying "You start talking  
16 and we'll stop bombing Hanoi". I am  
17 convinced that these arise simply because  
18 of psychological differences between the  
19 men in the working unit and the men who  
20 are directing them. I am convinced of  
21 this and I have talked to several industrial  
22 psychologists about it and I have had  
23 opportunities to discuss it with superintendents  
24 in the plant as well as with men on the job  
25 and there is no doubt in my mind that you  
26 can trigger real damage that could permanently  
27 cripple a union where the responsibility  
28 is mixed and the overall situation caused as  
29 much by the personal approach of the particular  
30 superintendent as by the men in the working





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1 unit.

2 MR. POLLOCK: As far as  
3 changing the suability of unions, it would  
4 certainly go at least one step along the way  
5 against the argument of employment  
6 injunctions. It seems to be one of the  
7 strongest arguments that management has -  
8 the employment injunctions to prevent  
9 damage. This damage, in many senses, is  
10 irreparable even if you could prove it  
11 and find somebody to collect or to sue  
12 and you can't collect any damages. You  
13 can't get \$100 thousand from ten individuals  
14 or whoever you happen to name. And you  
15 see, that is one of the reasons why they  
16 need that injunction, because the union  
17 isn't a suable entity and because here  
18 they can sit back and their treasury is  
19 immune and exempt from sanctioned and  
20 wrongful acts. I am not talking about  
21 the cases where there is a doubt and the  
22 courts are prone to say "Well you have a  
23 point. They are not suable, so we had  
24 better stop the damage before something  
25 occurs that can't be satisfied". What do  
26 you say about that?

27 MR. TURKSTRA: I have difficulty  
28 putting myself in a position of the judges  
29 as to whether that would make any sense to  
30 me. I would think that it is as easy to



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1 argue that apart from their trust funds and  
2 the special funds that are set up by most  
3 unions as such, are not heavy on assets.  
4 The buildings are normally held by a holding  
5 company and the shares are owned by trustees.  
6 It is a separate, corporate entity.

7 THE COMMISSIONER: But it  
8 is a trustee.

9 MR. TURKSTRA: For the members  
10 who are entitled to share in the trust but not  
11 necessarily the present local as a membership.

12 THE COMMISSIONER: Who would  
13 furnish the money?

14 MR. TURKSTRA: Well, let  
15 me cite a specific example. I have seen  
16 it raised by loan from the International.

17 THE COMMISSIONER: Yes, but  
18 for whom, or to whom?

19 MR. TURKSTRA: Not the operating  
20 union.

21 THE COMMISSIONER: But in  
22 trust for the operating union, isn't it?

23 MR. TURKSTRA: I wouldn't  
24 think so, sir.

25 THE COMMISSIONER: Well, who  
26 would be the beneficial owners or the beneficiaries  
27 of it?

28 MR. TURKSTRA: In the case of  
29 a pension trust, it would be the person entitled  
30 to share in the trust. It is unlikely that



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1 the persons entitled to operate the union  
2 today are necessarily the same people who  
3 have an interest in the physical assets.

4 THE COMMISSIONER: No, but I  
5 think possibly you meant that you would  
6 say a hall where a union meets. There is  
7 property that belongs to the union.

8 MR. POLLOCK: Garnishee  
9 the check-off or something like that.

10 THE COMMISSIONER: But you  
11 take a strong union, as in the United States,  
12 they are running banks and there is no doubt  
13 about the existence of assets.

14 MR. TURKSTRA: I am only  
15 suggesting, sir, but I rather suspect that  
16 some of those are run by pension funds and  
17 not by the operating union itself.

18 THE COMMISSIONER: You mean  
19 the profits go to the pensioners?

20 MR. TURKSTRA: It is used  
21 for the pensioners rather than day-to-day  
22 operation of the unions.

23 THE COMMISSIONER: Well, that  
24 might be.

25 MR. TURKSTRA: And you face  
26 this problem too, that on a large scale the  
27 assets are very rarely held by one local whereas  
28 you are dealing with one local.

29 THE COMMISSIONER: Well  
30 take a judgment in the Gaspé case, \$2 million.







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1 I assume that those who had a judgement  
2 had some idea of the means to recover it.

3 MR. TURKSTRA: If I am not  
4 mistaken, they sued the international,  
5 I don't think they sued the local.

6 THE COMMISSIONER: But that  
7 is the union that may have a bank.

8 MR. TURKSTRA: I am certain  
9 the international is all right but the  
10 answer to Mr. Pollock's question is that  
11 in an individual union where you are dealing  
12 with a local, you are going to approach  
13 the management by saying "Now we have a  
14 suable entity" and I say the mere fact that  
15 you can sue this local union ----

16 MR. POLLOCK: You might be  
17 able to sue the international the same way.

18 MR. TURKSTRA: Well, I think  
19 you have something there, possibly..

20 MR. POLLOCK: Is there anything  
21 else you want to say, sir?

22 MR. TURKSTRA: No, I think  
23 that completes it.

24 MR. POLLOCK: Well, I think  
25 your point, the therapeutic effect of the  
26 strike, is well taken and I think that too  
27 many people think that strikes are all evil.  
28 But the problem is, once you have had the  
29 therapeutic affect of the strike, how do you  
30 get the people back from the hospital?





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1 MR. TURKSTRA: Well,  
2 hospitalization isn't a necessary follow  
3 up to a strike but I am absolutely convinced  
4 of that from having talked to people involved  
5 in strikes right when they are going on,  
6 and I don't get excited about them any  
7 more. I used to get excited about strikes.  
8 It was terrible. All that production stopped  
9 and all those goods not being turned out.

10 MR. POLLOCK: But in some  
11 cases there may be a therapeutic value in  
12 the fact that they get a chance to blow off  
13 all their steam but there may be a severe  
14 drawback in the fact that while they are  
15 blowing off their steam, management might  
16 figure out that they can get along without  
17 them so that they don't have much of a  
18 bargaining weapon any more and I think  
19 that perhaps all the therapeutic aspects  
20 added together wouldn't satisfy the Toronto  
21 Typographical union anymore.

22 MR. TURKSTRA: That is a  
23 chance you take, but I wasn't looking at  
24 it from the point of view of saying that  
25 this is a good thing for union, or the  
26 employees or management. I was merely  
27 saying that, as an outsider, I think that  
28 in some ways, the present strike serves  
29 a purpose and fills a need for both sides  
30 and accomplishes something that takes a little



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1 bit of all the usual criticism of strikes  
2 - a little sting out of the criticism of  
3 strikes.

4 MR. POLLOCK: What you are  
5 saying is that all strikes aren't all bad.

6 MR. TURKSTRA: That is right.

7 MR. POLLOCK: Thank you very  
8 much, Mr. Turkstra.

9 Our next brief is from Mr.  
10 F.A. Barley.

11 MR. BARLEY: At the outset,  
12 I felt that the written presentation of this  
13 nature would serve the purpose that I had  
14 in mind and I had no strong aim to appear  
15 before the Commissioner. But I appreciate  
16 the opportunity and if there is anything  
17 that I can elaborate on with respect to  
18 this, or anything that the Commission can  
19 enlighten me on, I would be very grateful.

20 Do you want this read?

21 MR. POLLOCK: Well, we have  
22 read it but perhaps if you read it, it will  
23 help the presentation.

24 MR. BARLEY: My presentation  
25 is being made as a private individual and  
26 practitioner.

27 The brief itself, is as follows:

28 The underlying concept of labour  
29 unions, surely, is to provide an avenue for  
30 employees to bargain collectively with their





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1 employer in order to gain an equitable  
2 measure of security and remuneration for  
3 their efforts. Certain regulations have  
4 been imposed to protect each of the two groups  
5 against the other. Beyond this, they are  
6 left to work out their salvation by themselves,  
7 with the final determinant being a test of the  
8 relative ability of each to withstand the  
9 economic strains of a strike.

10 In its simplest and purest  
11 form, this process has much to recommend it.  
12 Free men, dealing freely and wisely with  
13 each other, should be able to work out their  
14 own destiny. But is this the situation  
15 which exists -- the situation with which we  
16 have to deal? The answer is plainly "no".  
17 To particularize, in part:-

- 18 1. The employees are often led  
19 and guided by professional union-  
20 ists, who have no direct stake  
21 in the employer's success or  
22 failure. These professional  
23 leaders can be invaluable  
24 in providing information and  
25 sound advice when they accept  
26 their responsibility, and  
27 have been in many cases.  
28 However, they may also use  
29 their influence irresponsibly  
30 and indulge in demagoguery --





1 which they have done, and  
2 can do with relative immunity.  
3 The effect of the latter  
4 approach is cumulative,  
5 leading to increased unrest  
6 and distrust on the part  
7 of the employees -- attitudes  
8 which, incidentally, are often  
9 applied against the leaders  
10 themselves eventually.

11 2. The interests of the national,  
12 or international, union are  
13 introduced into the relationship  
14 between local employers and  
15 their employees, often without  
16 any real advantage to the  
17 local. Staunch local leadership  
18 often thwarts these activities,  
19 but not always. At best, the  
20 employer-employee relationship  
21 is complicated by the inter-  
22 vention of the national or  
23 international union.

24 3. With the growth in size of  
25 individual industries, and  
26 the growing interdependence  
27 of industry and the community  
28 at large, the interests at  
29 stake at the bargaining table  
30 are not only those of employer





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1 and employee but also, to  
2 varying degrees, those of the  
3 community.

4 If I could just digress at this point. In  
5 my recent reading, I came across an article  
6 by Mr. William Dodge, with whom we are all  
7 well acquainted and in which he said he  
8 recognized that as the economy changes and  
9 economic problems become bigger and have  
10 wider and wider effect, no individual and  
11 no group of individuals can be permitted  
12 to operate without some form of outside  
13 control over their activities.

14 MR. POLLOCK: Was he directing  
15 that against companies or against unions or  
16 generally?

17 MR. BARLEY: He is generalizing  
18 against the relationship between employers  
19 and the unions. This was in an article in  
20 the University of Western Ontario Business  
21 quarterly, fall edition, 1965.

22 This is most evident in  
23 monopolistic or state enterprises.  
24 The outcome of the negotiations  
25 often affects directly the  
26 destiny of persons and  
27 institutions who have no  
28 voice in them.

29 4. In the special case of negotiations  
30 of employees of governmental







bodies with their employers,  
the ultimate decision rests  
with the elected representatives  
who are subject to political  
pressures rather than the  
bargaining in the marketplace.

The pure concept of the  
bargaining process as one of  
the economic challenge and  
compromise has little validity  
in this setting.

The situation, then, is not usually one of  
simplicity, free of involvement of the  
interests and influences of any but the  
direct participants. To claim immunity from  
control on the principle that the relations  
between the parties are completely private  
in nature is naivety or knavery.

#### The Bargaining Process

The true bargaining process of  
offer and counter-offer, persuasion, compromise  
and agreement has tended to be discredited  
in these times. All too often, it is considered  
to be a sign of weakness to yield on a point  
until it has been tested in the fires of a  
strike. Sometimes this stage is reached only  
by misjudgment or misadventure. Theoretically,  
the accidental deterioration to the strike  
should be rendered unlikely by the use of a  
conciliator or mediator. However, this



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process has not been very successful for various reasons. One of the chief causes of its failure is the knowledge by each party that it still has the opportunity of imposing its will on the other, regardless of the merits or logic of its case, by the use of the strike or lockout. The winner is decided by daring, not reason. Surely this is an anachronism in our society, where disputes are usually settled by reasoning and adjudication. Indeed, for a layman it is difficult to distinguish the present strike-dominated procedure from the crime of blackmail.

#### Strikes and Picketing

Under present-day conditions the gravity of a strike has increased beyond the simple disruption of an enterprise by the withdrawal of the employees' labour. Some statements have already been made about the dangerous distortions of civil rights that have been preached and practiced by a few irresponsible labour leaders and opportunist politicians. Unfortunately, for reasons of fear or apathy, the distortions have often been unchallenged. Surely any interference other than peaceful persuasion, with the rights of the owner to conduct his business as best he can, is patently an unjustifiable intrusion into his affairs. Would society tolerate barring the striker from alternative



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1 employment? Would society tolerate a mass of  
2 persons interfering with the right of the  
3 striker to use and enjoy his property?  
4 Obviously not. Yet this is the type of  
5 treatment that is advocated for -- and in some  
6 cases accorded to -- the employer. Even if  
7 the claims were just and reasonable -- which  
8 is at least unproven -- such action is  
9 intolerable. The end would be anarchy.

10 Some of the more militant union  
11 leaders have proclaimed that the purpose of  
12 picketing is to "keep out the scabs", one  
13 way or another. The more moderate claim only  
14 the right to inform and persuade, but sometimes  
15 say that a mass of picketers is more persuasive  
16 than a token force. Undoubtedly this is true,  
17 if persuasion is to be from fear. Unfortunately,  
18 such leaders fail to take account of the well-  
19 known tendency for large groups of people to  
20 behave in a manner which would be repugnant  
21 to them as individuals. If the leaders were  
22 made accountable for the actions of their  
23 followers, and the union made liable, as  
24 employers are for the acts of their agents,  
25 employers would have fewer misgivings about  
26 mass picketing. Furthermore, employers would  
27 have less need for injunctions.

28 The myth of the inviolability of  
29 picket lines has spread to the point where  
30 unions are seeking contractual immunity for







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1 their members who honour picket lines in spite  
2 of the existence of a labour agreement.  
3 Acceptance of such a term would seem to be  
4 tantamount to a conspiracy to frustrate the  
5 provisions of The Labour Relations Act, and  
6 should be barred. It is hoped that the  
7 report of the Commission will make such matters  
8 as this as clear, and be as definitive, as  
9 the classical decision with respect to the  
10 responsibility for participation in a union.

### 11 The Need

12 Rules are made for fools; wise  
13 men have no need of them. And so it is with  
14 labour relations. On the premise that  
15 reasonable men make reasonable demands in good  
16 faith, and that the issues are reviewed with  
17 an open mind, the community at large need  
18 not require its legislators to regulate  
19 labour disputes. Events have proven this view  
20 to be utopian. Much as management and labour  
21 may dislike having some panel or board to be  
22 the final arbiter, they have left society  
23 with little real alternative. They may  
24 find some consolation in the experience  
25 of firemen and policemen and their employers,  
26 where compulsory and binding arbitration is  
27 in effect. However, it might be suggested,  
28 with great respect, that a proper arbitration  
29 service should be established, staffed by  
30 arbitrators properly trained for their task.



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1 These would be supported by competent financial  
2 and other advisers, who would be able to provide  
3 competent technical analysis and evaluation  
4 of the submissions of the parties. Some people  
5 claim that the advent of compulsory arbitration  
6 would negate genuine bargaining -- that the  
7 parties would leave the decision to the  
8 arbitrator. Without statistics to support  
9 the belief, I would say that the experience  
10 in municipal negotiations does not support this  
11 view. In any case, if the parties are faced  
12 with the prospect of having to argue their  
13 respective positions before an arbitrator  
14 well versed in the subject and armed with the  
15 facts, their bargaining will be more responsible  
16 and meaningful.

17 This next portion I come to  
18 rather reluctantly because I feel that  
19 collective bargaining is a basic procedure.

20 While there may be other and more  
21 suitable solutions to the problem of labour  
22 disputes in general, some form of arbitration  
23 seems essential for monopolistic and governmental  
24 enterprises. Government enterprises are  
25 particularly vulnerable because of the public  
26 pressure to maintain services and the short-term  
27 involvement of the elected officials, the  
28 ultimate decision makers. In the absence  
29 of some checkrein in the form of profit and  
30 loss or compulsory arbitration, the only





1 limitation to the appetite of the unions is  
2 their self-restraint. In a movement raised  
3 in the belief that the answer to the question  
4 "How much is enough? should be "More", this  
5 prospect gives little cause for hope.

6 MR. POLLOCK: Thank you, Mr.  
7 Barley. There are a couple of questions I  
8 would like to ask. The first arises out of  
9 your comments on page 3, at the bottom of  
10 the page where you discuss the bargaining  
11 process and you conclude by saying:

12 "Surely this is an anachronism  
13 in our society, where disputes  
14 are usually settled by  
15 reasoning and adjudication."

16 I suppose you draw the analogy to the ordinary,  
17 legal proceedings of a court where somebody  
18 is deciding an issue between the two parties.

19 MR. BARLEY: Yes, or an  
20 arbitration to decide the value of something  
21 which is in dispute between parties.

22 MR. POLLOCK: Well, the question  
23 is: What are the standards? What is the  
24 criteria? Where do you find some measure or  
25 some scale whereby you can determine what a  
26 man is worth? What one job is worth in relation  
27 to another. How does an arbitrator do that?

28 MR. BARLEY: I appreciate that  
29 this is a very real problem and to accept this  
30 as being a cut and / <sup>dried</sup> formula type of thing







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1 would freeze the present relationship. I do  
2 appreciate this. I don't think you will  
3 arrive at any perfect answer, but all I suggest  
4 is that by this, you will arrive within some  
5 reasonable limits, some limits within which  
6 the employer can live in terms of costs or  
7 taxes or in terms of what the economy can  
8 tolerate with respect to its trade and things  
9 of this nature.

10 MR. POLLOCK: So that the  
11 general guideline is what you are suggesting?

12 THE COMMISSIONER: Is that  
13 for him or for the labourer? Is that what  
14 he can do?

15 MR. BARLEY: What is tolerable  
16 for the economy.

17 THE COMMISSIONER: That is  
18 from the employer's point of view?

19 MR. BARLEY: Yes.

20 THE COMMISSIONER: Yes, I  
21 think he does it to some extent and in the  
22 different categories of expense and disbursements  
23 and he makes provision for all the contingencies  
24 that he can reasonably foresee. Now, once  
25 you have determined that, what would be the  
26 action thereafter? Would you have a  
27 participation of profits by the employee?

28 MR. BARLEY: No, not directly  
29 because I think, as it has been said earlier,  
30 that management of the enterprise has to be a





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1 decision which is made by their people who  
2 are responsible for making that decision.

3 THE COMMISSIONER: Yes, but it  
4 seems to me that the basic fact of relation  
5 between a workman and his work is the interest  
6 that he can take in it. The old sense of  
7 artistry in modern industry has been eliminated.  
8 There is no artistry involved in looking  
9 after a nut or bolt or something like that.

10 MR. BARLEY: In general, yes.

11 THE COMMISSIONER: Yes, and  
12 if you give him an interest in it, it would  
13 not only be to his benefit but wouldn't it  
14 be to the benefit of the employer, if he  
15 takes an interest in that work. He is not  
16 concerned with two minutes of overtime work  
17 and he is concerned with turning out defective  
18 material or defective parts and one thing and  
19 another. Why wouldn't it be the most  
20 effective means of gaining his loyalty to  
21 that company to let him feel that "I am interested  
22 in the earnings of this company because I  
23 participate".

24 MR. BARLEY: I feel that they  
25 do, if the employer acts in good faith with  
26 his employee. When he is bargaining with  
27 his employees he will agree to an increase  
28 in wages, which is in proportion to the profit  
29 he has gained. This may be idealistic but  
30 I think the idea of the employer as an extortionist



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1 who wants to get the most work for the least  
2 money has gone by the board in general. These  
3 are all generalizations, mind you.

4 THE COMMISSIONER: Oh, yes.

5 MR. BARLEY: The professional  
6 man realizes that if he is going to succeed  
7 he has to have the good labour. He has to  
8 pay good money to get good labour and he  
9 is not concerned so much if he is getting  
10 value for his dollar if he is getting a man  
11 who can produce in accordance with what he  
12 is being paid. He is a little disturbed at  
13 times by the amount of money the man may  
14 require for time he is not working and some  
15 of these things which he questions he  
16 should have to support as an employer. But  
17 this, perhaps, should be a matter of society  
18 responsibility rather than his responsibility  
19 as an employer.

20 THE COMMISSIONER: The only  
21 reason I mention these things is that such  
22 a scheme has been applied in a number of cases  
23 in the United States at least with very  
24 satisfactory results.

25 MR. BARLEY: Yes, and there  
26 are companies with which we are all familiar  
27 who enable their employees at all levels to  
28 participate in stock purchases which is,  
29 in effect, a form of sharing in the profits  
30 and this kind of thing, I agree, yes, there is





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1 nothing wrong with this and, as I say, I think  
2 an enlightened employer and a good manager  
3 who wants to manage well, will recognize this  
4 and will do this.

5 I know of one particular case  
6 where this was done entirely voluntarily and  
7 it is a very good arrangement.

8 MR. POLLOCK: Turning now  
9 to the bottom of your fourth page, your  
10 question of picketing, you say:

11 "The more moderate claim only  
12 the right to inform and  
13 persuade, but sometimes say  
14 that a mass of picketers  
15 is more persuasive than a  
16 token force. Undoubtedly  
17 this is true, if persuasion  
18 is to be from fear."

19 Surely there is some merit in the argument  
20 for the support of numbers in the sense of  
21 popularity of the cause. If you were to  
22 align yourself to a cause that seems to be  
23 supported only by a couple of old bedraggled  
24 people who walk around and you aren't too  
25 prone to adopt that idea, you aren't receptive  
26 to that idea, but if you have a large number  
27 of people, maybe you would be more receptive  
28 to that thought. The only analogy outside  
29 of labour relations comes, for example, in  
30 the political sphere where political parties



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1 will have huge rallies in Maple Leaf Gardens  
2 and 15 thousand people come to hear John  
3 Diefenbaker. Those people that come to  
4 hear him aren't important from the standpoint  
5 <sup>he</sup> that/is now trying to win them over and  
6 communicate some information to them. They  
7 come because they are party members and the  
8 fact that they come - a group of 15 thousand -  
9 is a selling point for the rest of the  
10 people to say "Well, there are 15 thousand  
11 people that go there and maybe he's got something."  
12 So I think that you could probably carry that  
13 analogy into the picket line and say, if you  
14 only have two people maybe the people will  
15 say "Well, it probably is only run by the  
16 union leaders and the rest of the people are  
17 afraid to go out on the line and they are  
18 not interested, they want to get back to work".  
19 But if you have them all out there, there is  
20 this feeling of popular support. What do  
21 you say about that?

22 MR. BARLEY: I agree that  
23 this is true. It is a matter of degree and  
24 a matter of the intent of the gathering and  
25 the leadership that is given to it, but, as  
26 I say herein, we know that if the masses of  
27 people get together, they will act anonymously  
28 in a group the way they wouldn't as an individual  
29 and we are all well aware of certain unfortunate  
30 incidents that have occurred where a group of



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1 this nature perhaps starting out with very  
2 peaceful intentions has been subverted and  
3 misled by some rabble rousers who are happy  
4 to hide back in a crowd and stir it up.  
5 They don't have to bear the consequences.  
6 No one bears the consequences, except the  
7 man who is caught punching the foreman in  
8 the nose or the foreman who gets punched.

9                   So, if this situation can  
10 be controlled and if the unions - and I know  
11 they can't control the individual - but if  
12 there is some deterrent and some responsibility  
13 so that liability can be shown, they will  
14 be held accountable, then I have no objection  
15 any more than the 15 thousand people who  
16 were there for Mr. Diefenbaker.

17                   MR. POLLOCK:    So it is the  
18 numbers themselves who are not the fact that  
19 concerns you, it is the control of those  
20 numbers.  If the numbers are assembled in  
21 a place close to the plant and yet there is  
22 easy access to and from the premises without  
23 obstructing people and, of course violence  
24 and that type of thing, then the numbers  
25 themselves don't amount to an intimidatory  
26 factor?

27                   MR. BARLEY:    They do to a  
28 degree;  let us be honest about it.  If you  
29 are going past a school yard and there are  
30 two fellows there who are bullies, you are not





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1 so concerned as if there are 25. You can only  
2 hope that you will get by peacefully. You may  
3 take a chance with two but you won't with  
4 25. So there is a certain intimidating  
5 factor here and I think we have to recognize  
6 that. But I don't think that this is too  
7 serious. I think if people will control themselves,  
8 then I think the other people - if they  
9 become aware of this by the passage of time  
10 and experience - they will be prepared to  
11 accept their convictions and do what they  
12 think is right.

13 MR. POLLOCK: On page 5, you  
14 discuss the contractual provisions for  
15 collective agreements providing for  
16 the ability of signatories to that agreement  
17 to respect other picket lines. And you seem  
18 to say that that, in itself is against or  
19 contrary to public policy or it ought to be.

20 Really, it is a recognition  
21 of a reality that strikes will occur and you  
22 may be forced into that position of having  
23 to do something that you don't want to do  
24 or that you want to do but don't want to be  
25 restricted from not doing it. I don't know  
26 whether I am making myself clear or not.

27 The public policy aspect also  
28 would come into commercial contracts - ordinary  
29 commercial contracts - and I am sure you have  
30 seen them where they provide for penalties for



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1 delays except where there is a strike or some  
2 other reason. They recognize the fact that  
3 these things occur.

4 My point really, is what is  
5 wrong with the collective agreement that  
6 is negotiated between an employer and his  
7 union on behalf of the employees including  
8 a term which recognizes that someday they  
9 may be faced up against the situation. There  
10 is no requirement that the employer has to  
11 agree to it. A lot of contracts don't have  
12 it. Some have it and never have any occasion  
13 to use it.

14 MR. BARLEY: There are clauses  
15 both ways. There are clauses which recognize  
16 the failure to appear for work even in the  
17 face of a picket line that should be the subject  
18 of disciplinary action and there are others  
19 who say that there should be no penalty  
20 against the employee. But I feel that an  
21 employer who treats his own employees fairly  
22 and who has a fair agreement with them and  
23 has a good relationship with them has some  
24 right of protection against a dispute with  
25 another party. I don't see why he should  
26 be involved in that any more than I should  
27 be involved in the back fence argument between  
28 two of my neighbours. Why should they throw  
29 rocks across my backyard because they fight?  
30 I have my backyard and I am entitled to carry



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1 on in that backyard as I see fit.

2 MR. POLLOCK: Well, give me  
3 an example. Where is your dispute in your  
4 example?

5 MR. BARLEY: Between the two  
6 neighbouring parties. You have a contractor  
7 on a job and he has a worker in a union. This  
8 contractor gets into a dispute with his  
9 employees and the employees erect the picket  
10 line, and your employees say they will not  
11 cross the picket line.

12 MR. POLLOCK: To his detriment?

13 MR. BARLEY: To my detriment.  
14 The employer or the owner of the business  
15 for whom the contractor is working. Is this  
16 reasonable?

17 MR. POLLOCK: Well, it is  
18 reasonable if you agree to it.

19 MR. BARLEY: If you agree  
20 to it, yes.

21 MR. POLLOCK: You do agree  
22 to it.

23 MR. BARLEY: But I don't think  
24 that this should be a pressure point which  
25 can be to a dispute that the employer should  
26 be required to agree to this as part of the  
27 relationship of this employer.

28 MR. POLLOCK: Well, I suppose  
29 it is a negotiable item. If the economic  
30 pie is perhaps a little sweeter they may forego





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1 this clause for a few years and they may,  
2 on principle, stick to it. There are some  
3 craft unions that think that is probably the  
4 most important of the clauses and they insist  
5 on its insertion.

6 MR. BARLEY: Well, I think  
7 a reasonable employer would resist it to  
8 the utmost because it makes him subject to  
9 a dispute - could make him subject to a  
10 dispute - between two parties with whom  
11 he has no direct connection.

12 MR. POLLOCK: Well, of course,  
13 we have had evidence from the Toronto mailers  
14 union that they fought hard to get that in  
15 their clause and they thought they had  
16 something in there and they wound up holding  
17 an empty bag.

18 THE COMMISSIONER: But in that  
19 case they weren't content to simply stay back.  
20 They took an active part in the picketing.

21 Thank you, Mr. Barley, for  
22 appearing today. We are obliged to you.

23 MR. POLLOCK: Mr. Ralph  
24 Ellis is our next gentleman. We don't have  
25 a written brief on your behalf. Is the  
26 letter we received your brief?

27 MR. ELLIS: I sent five of  
28 them, sir.

29 MR. POLLOCK: I have a letter  
30 from you of February 10th.





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1 MR. ELLIS: That is the brief,  
2 sir, yes.

3 MR. POLLOCK: I take it that  
4 you are appearing as a representative only  
5 of yourself and like-minded individuals?

6 MR. ELLIS: No, sir. I presented  
7 that this brief as an individual and due to  
8 the time element in our union, our union didn't  
9 meet at the time I presented the brief so,  
10 therefore, when our union did meet, they  
11 endorsed this brief 100 per cent, and therefore,  
12 I am presenting it now on behalf of my local  
13 union.

14 MR. POLLOCK: That is Local  
15 354 of the Can Workers Union .

16 MR. ELLIS: This is a direct  
17 affiliate of the Canadian Labour Congress.

18 MR. POLLOCK: And this is  
19 local 354.

20 MR. ELLIS: Yes, sir.

21 Now, before I begin, I have a  
22 number of people here who are directly involved  
23 or who my brief deals with in detail and I  
24 wonder if it would be possible to have one  
25 of the representatives of these people join  
26 me at the table?

27 MR. POLLOCK: By all means.

28 MR. ELLIS: I will ask Mr.  
29 Peter Curtis to join me at the table.

30 MR. CURTIS: Mr. Commissioner,



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1 I appreciate being here and I have a brief  
2 also. Would you be requiring this?

3 MR. POLLOCK: Yes. Chronologically,  
4 Mr. Ellis, you have seniority here.

5 MR. ELLIS: In that case, I will  
6 read off the brief again for everybody  
7 concerned.

8 Dear Sir: As an active trade  
9 unionist with 20 years of experience and  
10 service, I would like to express my feelings  
11 on International Unions and how in my opinion  
12 International Unions contribute to labour  
13 unrest in the Hamilton area and indeed  
14 throughout the whole province of Ontario.

15 In the summer of 1966 there  
16 occurred a wildcat strike at the Steel Company  
17 of Canada that in my estimation was a direct  
18 protest against the leadership of Local 1005  
19 U.S.W. of America, which to all intents and  
20 purposes is owned, operated and controlled  
21 from Pittsburg in the United States of America.

22 The membership of this and  
23 other International Unions are told only what  
24 the leadership thinks they should know and no  
25 more. The leaders of these Unions are not  
26 elected, rather they are appointed and paid  
27 from the United States, and no matter how  
28 much their membership would like to have them  
29 removed the members are stuck with them  
30 until they quit, retire or die, at which time





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1 the headquarters in the United States appoints  
2 a new director, area representative or  
3 business agent.

4 I venture to say if these  
5 appointed leaders had to take their chances  
6 at being elected like any member has to, they  
7 would never make it.

8 The leaders of International  
9 Unions would have their Canadian union members  
10 believe that the International puts more  
11 money back into Canada than they take out.  
12 I definitely and sincerely doubt it.

13 If this were true why then do  
14 they continue to organize new groups of  
15 workers and in one case even went so far as to  
16 raid a large union in order to win more members.

17 Therefore, in the interest of  
18 labour peace in Ontario, I recommend that this  
19 committee make the necessary changes in  
20 the labour laws to give Canadian workers in  
21 International Unions more autonomy and  
22 control over the affairs of their Unions.

23 MR. POLLOCK: Thank you, Mr.  
24 Ellis. Could you tell us how you feel that  
25 the control of the director, area representative  
26 or business agent over the local causes labour  
27 unrest? Do you think that the membership  
28 of the local would be more responsible or more  
29 amenable to what management was prepared to  
30 offer than their leaders?





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1 MR. ELLIS: No, I don't believe  
2 so. I think that the international leaders  
3 more or less decide the policy of their  
4 membership and in this particular instance  
5 in this strike, the leadership - the inter-  
6 national representatives - decided what they  
7 thought was going to be good or not good for  
8 the membership concerned and they went to the  
9 bargaining table with this attitude and did  
10 not keep the membership fully informed as  
11 to their progress and this, in turn, led  
12 to frustration of the workers and, in turn,  
13 led to a wildcat strike because of the workers'  
14 frustration.

15 MR. POLLOCK: That is a com-  
16 munications problem that would exist between  
17 elected representatives as well as appointed  
18 representatives because I am sure that in  
19 some areas the bargaining committee is elected  
20 from the membership in other international  
21 unions and the communications problems exist  
22 in those situations as well.

23 MR. ELLIS: I suppose you  
24 are right to the point. But I feel that  
25 Canadian members would be more likely to  
26 go along with this type of thing had they  
27 elected these men themselves rather than  
28 having them appointed from the United States.

29 MR. POLLOCK: Do you think  
30 that the men or the membership of the union



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1 was dissatisfied with the negotiation that  
2 this appointed bargaining committee had  
3 arrived at for them?

4 MR. ELLIS: Yes. The feeling,  
5 as I saw it, was that the membership was  
6 quite unhappy and they felt that the international  
7 was not carrying out their wishes as they  
8 had stated them to the international representatives  
9 and this also frustrated them.

10 MR. POLLOCK: They wanted more  
11 than the international union supposedly was  
12 prepared to get, is that right?

13 MR. ELLIS: Yes, that is right.

14 MR. POLLOCK: Well, that  
15 seems to me as if it would cause more unrest,  
16 wouldn't it? If these people wanted more and  
17 more and more, than the people that management  
18 had to bargain with. Maybe I am misinterpreting  
19 what you mean by labour unrest. Are you  
20 talking about internal dissatisfaction with  
21 the union organization or unrest based on  
22 economic issues that they aren't being  
23 satisfied through the collective bargaining  
24 machinery, resulting in strikes?

25 MR. ELLIS: Perhaps my  
26 colleague, Mr. Curtis, could answer this. He  
27 is more directly concerned with the actual  
28 internal workings of the particular union  
29 in question.

30 MR. CURTIS: Mr. Chairman, do





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1 you want me to answer this question now or  
2 do you want me to read my brief and then I  
3 can get around to any questions?

4 MR. POLLOCK: If you will  
5 remember the question and read the brief,  
6 we will get back to the question.

7 MR. CURTIS: The remarks  
8 contained below:

9 "As an active trade unionist with 20  
10 years of experience and service, I  
11 would like to express my feelings on  
12 International Unions and how in my  
13 opinion International Unions contribute  
14 to labour unrest in the Hamilton area  
15 and indeed throughout the whole province  
16 of Ontario.

17 In the summer of 1966 there  
18 occurred a wildcat strike at the Steel Co  
19 of Canada, that in my estimation was a  
20 direct protest against the leadership of  
21 Local 1005 U.S.W. of America, which to  
22 all intents and purposes is owned,  
23 operated and controlled from Pittsburgh  
24 in the United States of America.

25 The membership of this and  
26 other International Unions are told  
27 only what the leadership thinks they  
28 should know and no more. The leaders  
29 of these Unions are not elected, rather  
30 they are appointed and paid from the



1 United States, and no matter how much  
2 their membership would like to have them  
3 removed the members are stuck with them  
4 until they quit, retire, or die, at which  
5 time the headquarters in the United States  
6 appoints a new director, area representa-  
7 tive or business agent.

8 I venture to say if these  
9 appointed leaders had to take their  
10 chances at being elected like any member  
11 has to, they would never make it.

12 The leaders of International  
13 Unions would have their Canadian union  
14 members believe that the International  
15 puts more money back into Canada than  
16 they take out. I definitely and sincerely  
17 doubt it.

18 If this were true why then do  
19 they continue to organize new groups of  
20 workers and in one case even went so far  
21 as to raid a large union in order to win  
22 more members.

23 Therefore in the interest of  
24 labour peace in Ontario, I recommend that  
25 this committee make the necessary changes  
26 in the labour laws to give Canadian workers  
27 in International Unions more autonomy and  
28 control over the affairs of their Unions."  
29  
30





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1 THE COMMISSIONER: Do you  
2 belong to an international union?

3 MR. CURTIS: Yes, and I  
4 submit this brief on behalf of myself.

5 THE COMMISSIONER: Because  
6 the Can Workers Union is not an international  
7 union.

8 MR. POLLOCK: I don't think  
9 Mr. Curtis is a member of the Can Workers.  
10 I think he is a member of another international  
11 union which shall go nameless at the request  
12 of Mr. Curtis.

13 Now, can you answer the  
14 question?

15 MR. CURTIS: Could you refresh  
16 my memory again?

17 MR. POLLOCK: I think the  
18 question is really one relating to the amount  
19 of labour unrest that would be directly  
20 related to appointed leadership as opposed  
21 to grass roots, I suppose, control. I don't  
22 like to use that term.

23 THE COMMISSIONER: The  
24 Canadian elected people.

25 MR. POLLOCK: The Canadian  
26 elected people. Put it this way - would  
27 there be more strikes in your view if the  
28 leadership or the negotiating committee was  
29 closer in liaison with the membership? That  
30 is they were more responsible directly to the





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1 membership for their actions and everytime they  
2 did anything it would have to be sanctioned or  
3 ratified by the membership.

4 MR. CURTIS: I think if there  
5 was more communication between the elected  
6 and negotiating committees and the rank and  
7 file, this would eliminate part of the tension  
8 as I see it, from my observations. Tensions  
9 arise when there seems to be a lack of communica-  
10 tion and the rank and file seem to be in doubt  
11 as to what is exactly going on at any particular  
12 time, particularly if it is drawn out. In  
13 some cases a month will elapse when there has not  
14 been direct communication with the membership  
15 at large.

16 Now, with regard to appointed  
17 representatives, I think in the case where a  
18 representative, an international representative,  
19 is appointed and is firmly entrenched, their  
20 rank and file have a certain feeling of  
21 frustration that they cannot somehow change  
22 this particular structure. They feel that  
23 the man is not doing the job that they want  
24 him to do and they are completely stymied  
25 in their ability to have any direction over  
26 changing this kind of situation.

27 MR. POLLOCK: Surely the  
28 whole negotiating committee isn't composed  
29 of appointed people. Aren't the people  
30 elected from the general membership to the



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bargaining committee?

MR. CURTIS: This is true but these were my opinions, that by and large the elected agents pretty well control the pace and the strategy of negotiations.

MR. POLLOCK: That is the elected agents?

MR. CURTIS: The appointed agents. I will rephrase that.

THE COMMISSIONER: Would you consider that the view you express is held by a majority in the Canadian unions?

MR. CURTIS: I think there is an undercurrent of feeling toward Canadian unions and I think that part of the labour unrest, as I see it, is directly related to the Canadian memberships of international unions not being able to have or to change the structure and administration policy makings of the various international unions in Canada and I believe that this is part - for many reasons - and this is part of the reason for dissatisfaction.

THE COMMISSIONER: How is that unrest expressed? What are the manifestations?

MR. CURTIS: Well, I think possibly some of the strikes that have taken place and some incidents are not only motivated by frustration on the job but in some cases against union leadership and some of the strikes





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1 may be part of that reason and this is a  
2 manifestation of it.

3 THE COMMISSIONER: Well, you  
4 can't get any closer to it than that, can you?  
5 To give it more specific application?

6 MR. CURTIS: Well, as I see  
7 it and as I pointed out, it is that rank and  
8 file feel, in some respects, from my observation,  
9 left out with regard to making the decision  
10 and in some cases they think that the  
11 international is partly responsible for this  
12 frustration so they manifest it by culminating  
13 it with these other reasons.

14 THE COMMISSIONER: Would you  
15 end all international organizations?

16 MR. CURTIS: I think fraternal  
17 organizations are much better. If the Canadian  
18 Trade Union movement at large became masters  
19 of their own house, so to speak, I do think  
20 this would help solve part of their particular  
21 problem.

22 THE COMMISSIONER: Why don't  
23 they?

24 MR. CURTIS: Well, the union  
25 structures, by and large, are changed at  
26 international conventions for resolutions. The  
27 Canadian section only represents a very small  
28 minority of that section. At international  
29 conventions, of course, they are overwhelmingly  
30 outvoted, so to change their constitution





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1 through the constitution at an international  
2 convention, it is almost impossible.

3 THE COMMISSIONER: But couldn't  
4 Canadian unions withdraw from association  
5 with the international?

6 MR. CURTIS: I suppose they  
7 could.

8 THE COMMISSIONER: But they  
9 don't desire to do that, do they?

10 MR. CURTIS: I think some do,  
11 according to my observation.

12 THE COMMISSIONER: But they  
13 have been associated with international  
14 unions since the late 80's in the nineteenth  
15 century. Certainly on the railway and it  
16 grew out of the close relationship between  
17 the operating members operating employees  
18 with trains running through Montreal to  
19 Chicago, Portland. There was a close association  
20 between the two companies and the interchange  
21 of traffic and one thing and another.

22 MR. ELLIS: May I suggest  
23 that it is a long, drawn out procedure to withdraw  
24 from an international union these days. It  
25 is a long, drawn out and complicated procedure  
26 to withdraw from an international union.

27 THE COMMISSIONER: You wouldn't  
28 withdraw but you would nullify the relationship.

29 MR. ELLIS: That is right.

30 THE COMMISSIONER: I suppose that



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1 would require an application of the structure  
2 of the international union itself?

3 MR. ELLIS: Yes.

4 MR. POLLOCK: I think if you  
5 could, in Canada, manifest your discontent  
6 with the structure to such an extent and if  
7 you could get the majority support for this,  
8 I think that probably there might be considerable  
9 changes in the international structure. I  
10 don't think that your view about labour unrest  
11 really squares with the actual experience  
12 that occurs in the Province of Quebec, for  
13 example, where the Confederation of National  
14 Trade Unions undoubtedly is probably the  
15 most nationalistic of all the trade unions  
16 in Canada, is probably the most militant,  
17 and that Canadian Labour Congress unions in  
18 Quebec are faced with that problem of trying  
19 to be more militant than the militants.

20 MR. ELLIS: That is something  
21 like the Red Guard.

22 MR. POLLOCK: Yes, something  
23 like the Red Guard. So I don't think it is  
24 a question of international association that  
25 is related to the labour unrest but you  
26 have given us something to think about.

27 THE COMMISSIONER: I think  
28 you might recommend that the appointment be  
29 made - that someone recommended by the  
30 Canadian group. What you object to is the



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1 manner in which the international representative  
2 in Canada receives his office - by appointment.

3 MR. ELLIS: That is right.

4 THE COMMISSIONER: Have you  
5 ever tried to have that appointment made  
6 subject to the approval in some form or other  
7 of the Canadian union?

8 MR. ELLIS: No, this is all  
9 done through the international convention,  
10 as my colleague pointed out.

11 MR. POLLOCK: Of course, you  
12 don't suffer from that because you are a  
13 completely Canadian union, that is the Can  
14 Workers.

15 MR. ELLIS: No. Our concern  
16 in bringing this forward is that the union  
17 that I refer to here - the United Steel Workers  
18 of America, is attempting and will probably  
19 do so, they are attempting to take over our  
20 union by putting pressure on the Canadian  
21 Labour Congress in the form of advocating  
22 that smaller unions who deal in the same  
23 product, should become part of the bigger  
24 union, whether or not the membership of that  
25 particular union wants it that way or not.

26 THE COMMISSIONER: Do you think  
27 the C.L.C. would coerce you into that - in  
28 favour of an international union?

29 MR. ELLIS: Yes, there is  
30 every likelihood because the United Steel Workers





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1 hold tremendous powers within the Canadian  
2 Labour Congress and if the pressure is applied  
3 to Mr. Claude Jodoin, then it is pretty hard  
4 for Mr. Jodoin to say no to such a powerful  
5 body.

6 MR. POLLOCK: I would think  
7 there are a lot worse unions to be coerced  
8 into joining than the United Steel Workers  
9 of America. If you had your druthers, I  
10 don't think you'd pick any other.

11 MR. CURTIS: Well the Can  
12 Workers Union desires to stay as they are  
13 and they don't like the idea of being  
14 shuffled off in an area they don't desire to  
15 go.

16 With regard to remarks the  
17 Commissioner made a few minutes ago, this  
18 may have been a minority opinion with regard  
19 to this movement toward Canadian identity.  
20 I think if you peruse the resolution that  
21 was submitted to the last two C.L.C.  
22 conferences, you will see a tremendous  
23 indication of this type of feeling throughout  
24 Canada and I think that this other seven-man  
25 commission has been set up by the C.L.C.  
26 to explore these possibilities of structural  
27 and constitutional changes and there is a  
28 great impetus of feeling towards moving the  
29 Canadian trade union into a more Canadian  
30 type of identity with more Canadian control



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1 over their own affairs.

2 THE COMMISSIONER: How many  
3 members have you in your union?

4 MR. ELLIS: We have approximately  
5 500.

6 THE COMMISSIONER: Is that  
7 the total of your company?

8 MR. ELLIS: No, we have a local  
9 in Montreal and one in Simcoe and one in  
10 Chatham with a combined total of approximately  
11 16 hundred. It was our feeling in presenting  
12 the brief that if you could use your influence  
13 to make it easier for those members of  
14 international unions who wish to gain their  
15 autonomy and become masters of their own  
16 house to break away from international unions.  
17 At the present time, as I say, it is a  
18 pretty complicated deal - trying to break  
19 away from an international union - when you  
20 have to fight the international leaders who  
21 are appointed and you have to fight the  
22 international convention made up, 90 per cent,  
23 of Americans.

24 MR. POLLOCK: All you really  
25 have to do in your local plant is persuade  
26 251 people that you are right, and you can  
27 get your union to certify it.

28 MR. ELLIS: It is a simple  
29 majority.

30 MR. POLLOCK: Yes.



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1 MR. ELLIS: But in the case  
2 of 10 thousand members, in the United Steel  
3 Workers here in Canada ---

4 MR. POLLOCK: Then you have  
5 to persuade 5001.

6 THE COMMISSIONER: But don't  
7 you think the general position of labour in  
8 this province would be strengthened by  
9 a greater degree of federation and combination?

10 MR. ELLIS: Yes, within the  
11 Canadian framework.

12 THE COMMISSIONER: Well, of  
13 course, it was the Canadian unionists themselves  
14 who sought the American association.

15 MR. ELLIS: Yes, that was when  
16 the Canadian trade union movement was knee-high  
17 to a grasshopper, so to speak. But now, I  
18 believe, and a great many Canadian members  
19 believe, that we are big enough and we are  
20 old enough to take care of our own affairs  
21 and we don't have to have these American  
22 unions telling us what to do and what not to  
23 do and where we are going to go and where  
24 we are not going to go.

25 MR. POLLOCK: You were sort  
26 of a Walter Gordon in the trade union movement.

27 MR. ELLIS: That might be,  
28 but at any rate, again I say that we are  
29 asking that the labour laws of Ontario be  
30 made easier for unions - for Canadian unions -





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1 to break away from international unions.

2 MR. POLLOCK: You are anticipating,  
3 I suppose, they they are going to subsume  
4 you into their union so that you are laying  
5 the groundwork now to get out.

6 MR. ELLIS: Right.

7 THE COMMISSIONER: When did  
8 you become associated with an international  
9 - when did the steel people become associated  
10 with the international union? Was it from  
11 the beginning?

12 MR. CURTIS: Yes, sir.

13 THE COMMISSIONER: Well, of  
14 course, we don't want a war over this.

15 MR. ELLIS: No, but when a  
16 strike that took place affected 10 thousand  
17 members directly and another 10 thousand  
18 indirectly, and in effect the whole economy of  
19 Hamilton, because of an international officer,  
20 then when you consider this matter, it is a  
21 fantastic situation where international union  
22 officers can cause frustration to the extent  
23 where the whole economy of Hamilton is affected  
24 and where the lives of 10 thousand workers  
25 are affected and where the income of both the  
26 Steel Company of Canada and 10 thousand workers  
27 are affected to that extent.

28 MR. POLLOCK: I thought it was  
29 a wildcat action.

30 MR. ELLIS: It was.





1 MR. POLLOCK: That caused  
2 this and not the officer. You were saying  
3 it is his behaviour that percipitated the  
4 wildcat action.

5 MR. ELLIS: That is right.

6 MR. POLLOCK: Well, I am  
7 much obliged to both of you gentlemen for  
8 your views.

9 That concludes the formal  
10 hearings. Is there anyone present in the  
11 audience who would like to add anything  
12 to the hearings of the Commission, while  
13 we are sitting in Hamilton?

14 Receiving no response, the  
15 hearings of this Commission are adjourned.

16 ---Adjournment  
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BINDING SECT. OCT 20 1967



